

No. 16,981

United States District Court  
Eastern District of Louisiana

UNITED STATES  
vs  
ALBERT M. MORRISON ET ALS  
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VOLUME 1.

NO. 16,981  
U. S. DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA  
NEW ORLEANS  
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UNITED STATES

No. 16,981

VS

\* UNITED STATES DISTRICT COURT

ALBERT M. NORRISON, et al \* EASTERN DISTRICT OF LOUISIANA

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Proceedings had in open Court in the above entitled and numbered cause before HON. C. B. KENNEMAR, Judge, on the 1st, 2nd, 3rd, 4th, 5th and 6th of May 1933, at New Orleans, La.

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THE COURT:

Call the defendants and see if they are all here.

(Defendants called)

MR. WOODCOCK:

We move for a forfeiture on the bond of Isadore Blumenfeldt. He is not here, Your Honor.

THE COURT:

All right. Let the minutes show a forfeiture of the bond on Isadore Blumenfeldt.

MR. WOODCOCK:

Jake Brownstein has never been apprehended, Your Honor. Emilio Cue, I understand is not here.

MR. GEX:

Emilio Cue is in Detroit where habeas corpus proceedings are being heard today as to removal proceedings.

MR. WOODCOCK:

The government will just pass that case. He will not be here. Abe Kaplan has not been apprehended, Your Honor. Jules Le Bouef has not been apprehended.

MR. GEX:

Philip Malini, we understand, moved to New Jersey where he had a position. As soon as we learned of his reindictment we communicated with him and he is on his way south by bus. I do not think he can get here before ten o'clock tonight. We were not notified in

time -

THE COURT:

What is the date of the second indictment?

MR. WOOSCOCK: December 2, 1932.

MR. GEX: He has never been arrested on the second indictment.

THE COURT: Was he discharged on the first one?

MR. WOODCOCK:

No, Your Honor. The only thing with respect to the first Indictment was a motion to suppress the evidence. No one has been discharged on that Indictment.

MR. GEX:

He did not know that and he is on his way here to answer this Indictment.

THE COURT:

If he is not here at 10:30 his bond will be forfeited.

MR. WOODCOCK:

If the Court please, as to Samuel L. Rifas we will enter nolle prosequi as to him.

THE COURT:

It will be so ordered.

MR. WOODCOCK:

Morris Roisner has never been apprehended, Your Honor.

THE COURT:

I understand some of the defendants are now in jail?

MR. TALBOT: Two of them, Your Honor.



MR. GEX:

One defendant named Blaine Lee has never been arrested on either Indictment. Is a forfeiture asked?

MR. WOODCOCK:

No, no forfeiture asked.

MR. GEX:

John Knight is the name of the negro in the Gulfport jail. He cannot answer here because he is arrested by Federal authorities in Mississippi and is in jail now. You would not want a forfeiture against his bond unless we get an order to have him removed here. He has no way to get here except on direct orders.

MR. WOODCOCK:

The government was not aware of that situation. The matter will be passed for further inquiry.

MR. GEX:

I am perfectly willing to that.

THE COURT: All right.

MR. GEX:

Talbot Green was never arrested and not apprehended.

MR. WOODCOCK:

I think that is right. I do not think he has been apprehended.

MR. GEX:

Through inadvertence we show this prisoner's name

in the special plea we have filed, and we will strike it, because I learn he has not been apprehended and not present, and we ask leave now to strike his name. We thought we represented him.

THE COURT:

All right. It is so ordered.

MR. GEX:

We represent John Knight, but the Court heard our explanation -

THE COURT:

I will permit the representatives of the government to look into that and bring him here if they think proper.

MR. GEX:

And if not, we ask leave to strike his name from our special plea.

THE COURT: Very well.

10:30 A. M.

MR. WOODCOCK:

May it please the Court, we ask for a forfeiture of the bond of Philip Malini, as he is not here.

THE COURT: Let the forfeiture be entered.

MR. WOODCOCK:

These men have not been arraigned, and I ask that be be done.

THE COURT: Let all defendants be arraigned.



MR. GEX:

May it please the Court, as to the defendants, Louis Cameron, Henry Dandridge, Sam Dandridge, Jim Dantzler, Leon Fox, Booker Gaines, N. T. Haas, Blaine Lee, Alfred Jackson, Charles Martin, Leander Necaise, Ilos Parker, Buster Malini, and Philip Malini, we have a special plea that we desire to present to the court, before arraignment.

MR. GRACE:

On behalf of the defendant, Nate Goldberg, we would like to be permitted to join in that plea.

MR. SLADE:

Also on behalf of Albert Morrison we join in that plea, Your Honor.

MR. WOODCOCK:

The government has not been furnished with a copy of this plea, therefore knows nothing about it.

MR. GEX:

One of the defendants in this Indictment has not yet been apprehended, so we cannot file the plea -

THE COURT:

No plea should be filed for a defendant that has not been apprehended.

MR. GEX:

We file it for the other defendants before arraignment.

THE COURT:

All right, what is it. State the grounds.

MR. GEX: May I read the plea?

THE COURT: Yes.

MR. GEX: (Reading plea to Court)

MR. DOWLING:

I would like to join with these defendants in this motion.

MR. HOLLINS:

I file the same motion on behalf of Ray Miller and Frank Ritter.

THE COURT: All right.

(ARGUMENT)

THE COURT:

It amounts to nothing more than attacking the minutes of the Court. It does not in any way contradict the validity of the Indictment. There is nothing in the plea to affirmatively show anything illegal before the Grand Jury.

MR. TALBOT:

It is nothing more than a written charge that Judge Borah reads to the Grand Jury. We offer that report of Judge Borah's in evidence.

(ARGUMENT)

THE COURT:



How will you dispose of this plea; file a demurrer?

MR. WOODCOCK: Yes, Your Honor. I will undertake to write that up and file it.

MR. GEX:

We will be granted an exception.

MR. GRACE: The exception going to all defendants?

THE COURT: Yes.

MR. GEX:

I have a demurrer I would like to present Your Honor, as to Leander Necaize. (Reading demurrer)

THE COURT:

When the evidence is all in, if there is not evidence enough to make a case, I will discharge the defendant.

THE COURT: I overrule the demurrer.

MR. GEX: We take an exception, if Your Honor please.

MR. GEX:

We have a motion here for severance. (Reading motion to court.)

THE COURT: Overruled.

MR. GEX: Exception.

MR. GEX: We will have it sworn to. I reserve an exception.

MR. GRACE:

We submit a plea of abatement on behalf of Nate Goldberg, and a similar plea filed on behalf of Morrison. The

allegations of fact call for an answer by the government. Do you prefer that I go ahead and outline the nature of it?

THE COURT: Yes.

(ARGUMENT)

THE COURT:

I think we had better traverse that plea and have evidence on it.

(ARGUMENT)

THE COURT:

As to the information obtained from the records, that would not be sufficient. Witnesses might testify before the Grand Jury that had knowledge of the facts independent of the record, and yet the record show the same facts.

MR. WOODCOCK:

I am perfectly willing for the time being to assume the burden of assuming the allegations and proceed right now.

MR. GRACE:

I would like to have an answer first, so we will know what to prove. He says some facts he is going to deny, and I think we are entitled to a return on it. I do not think Mr. Woodcock is proper to answer. I think it should be someone who was before the Grand Jury to



answer under oath the facts we allege.

MR. WOODCOCK:

The burden of proving the allegation would certainly be upon the mover of the plea. I am perfectly willing to proceed right now.

MR. SLADE:

No doubt about that, Your Honor, but we are entitled to have a sworn answer.

THE COURT:

If you gentlemen insist, I will permit the government Counsel to prepare his answer to the plea.

MR. SLADE:

Yes, then we would know definitely.

THE COURT:

All right. How long will it take you to prepare it?

MR. WOODCOCK:

About a half hour.

THE COURT:

All right, we will take a recess for half an hour.

(Half hour recess)

MR. WOODCOCK: (Filing answer)

I will ask leave to traverse the Morrison later. I presume they are the same. I did not see the one for Morrison.

THE COURT: Yes.

MR. GEX:

We have just received the answer of the government which is signed by one R. E. Herrick -

MR. WOODCOCK:

Sworn to by him.

MR. GEX:

Sworn to rather, but there is nothing in this answer indicating or showing what information, or upon what the denial, so far as Mr. Herrick is concerned, is based on. We are entitled to have an answer signed and sworn to by someone familiar with the records of the Grand Jury. This man Herrick, I do not know who he is, or what information he has. I think your answer should show whatever was done or was not done by somebody familiar with the allegations. We charge the government and its agents with doing these specific things.

MR. WOODCOCK:

The affidavit is in the form with which I am familiar. The answer is filed by two parties representing the United States, just as my friend represents the defendant. We filed an answer and signed it. Then we filed a supporting affidavit by R. E. Herrick, which is the same gentleman of course, referred to in the very

petition which is filed, so my friend cannot be under any misapprehension as to who R. E. Herrick is, because he sets forth in his petition who R. E. Herrick is. It has never been my practice, good practice, in the supporting affidavit, to elaborate the basis of actual knowledge where the man got his information and all that. He says it is true and correct to his best knowledge and belief. Mr. Herrick is here and can be examined under oath to state the basis of his belief. The reason I selected Mr. Herrick to make the affidavit, was because the records of the Court show that it was in Mr. Herrick's custody and Mr. Talbot's custody these records were placed, so those two men are here to testify that those records did not go into the Grand Jury.

THE COURT: Please read it.

MR. SLADE: (Reading answer to Court)

THE COURT:

The Court is inclined to take the testimony of the District Attorney.

MR. SLADE:

I do not know who this man is, whether he is a stenographer or what.

MR. WOODCOCK:

He is a Special Agent and the petition so sets that out.

Counsel knows he is not a stenographer.

MR. SLADE:

I am merely giving Your Honor an illustration. He is not the United States Attorney or Assistant District Attorney. He may be an Investigator in some prohibition department, but that does not give him the right to tell me what transpired in the Grand Jury room.

MR. WOODCOCK:

Perhaps the Court is not aware that during the period that the supersedeas was in operation, the government was contemplating taking an appeal from the order set forth here returning the documents. There was a subsequent order placing it in the custody of Mr. Herrick and Mr. Talbot. Those are the two best possible witnesses as to where these documents were.

THE COURT:

Aside from the documents, Mr. Woodcock, doesn't it amount to this, that there was sufficient evidence before the Grand Jury on which to return an Indictment. Isn't that the legal effect of your plea?

MR. WOODCOCK:

Yes, Your Honor. I think the proceedings before the Grand Jury are secret and confidential, except as disclosed by the fact that witnesses were there.

What the witnesses testified to I do not believe this

Court can inquire into.

THE COURT:

I believe on a plea of this kind you will have to go into the proceedings enough to determine whether there was legal testimony before the Grand Jury.

MR. WOODCOCK:

That means showing the witnesses who were there, doesn't it?

THE COURT:

Not necessarily; not all but some of the witnesses.

MR. WOODCOCK:

The docket shows that certain witnesses were there and testified. I think the burden is upon the other side to show to the contrary. Of course, we are here to expedite justice and these witnesses are available and can testify as to what they did say. Your Honor can release them from their oaths of secrecy.

(ARGUMENT)

THE COURT:

I think we can cut this matter short by examining the District Attorney.

MR. SLADE:

That is all we ask.

MR. WOODCOCK:

I will call Mr. Herrick. The Assistant District Attorney



IS Not available because he is not here. The two men in whose custody the documents were are here. Mr. Keyes never had custody of them.

THE COURT:

Examine the gentlemen who had custody of them.

- - - - -

R. E. HERRICK: Witness, being duly sworn and examined on behalf of the government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A R. E. Herrick.

MR. SLADE:

Do I understand Your Honor overrules our motion to strike the answer on the grounds I urged, so that we can take appropriate exceptions. My first motion is addressed to the answer itself, because it is insufficient, not being verified by appropriate duly authorized persons showing knowledge of these facts.

THE COURT:

I overrule the motion and will hear the testimony.

MR. SLADE:

And your Honor will give us an exception to it?

THE COURT: Yes, you may have an exception.

MR. SLADE:

May I suggest to the Court that the jury be excused

while taking this testimony?

THE COURT:

I have no objection to that. Excuse the jury until two o'clock. (Jury retired from Court room)

BY MR. WOODCOCK:

Q Mr. Herrick, will you tell the Court your name and position?

A R. E. Herrick, Special Agent, Bureau of Prohibition, Department of Justice.

Q How long have you been a Special Agent?

A Ever since the Unit was created in 1926.

Q You were in charge of the investigation and preparation of the case against Albert Morrison and others?

A Yes sir.

Q Are you familiar with the order of the Court suppressing certain documents and records under a search warrant?

A I am.

Q And did you have physical possession of those documents and records?

A Yes sir.

Q From the time that they were seized until the time they were returned?

A Yes sir.

Q And are you familiar with the order of the Court putting them in your possession and the possession of

Mr. Talbot, impounding them in your possession?

A Yes sir.

Q Do you remember about - of course, the records would show - do you remember about when that order was made?

A I think it was made in June or July last, as I recall.

Q Of 1932? A Yes.

Q Were those documents returned to the defendant Morrison or his representatives? A Yes.

Q When was that done?

A I imagine about two months ago as I recall.

Q Now, were you physically in possession of those records during that time?

A Yes, Mr. Talbot and myself.

Q Where were they actually, physically placed and kept?

A At what time?

Q During the time between the order putting them in your and Mr. Talbot's custody and the time of their return?

A They were kept at our office at 704 Masonic Temple Bldg. until - well, they were over there after the order was signed until they were returned.

Q You cataloged them, and indexed them, and had complete control of them?

A Yes sir.

Q With the approval of Mr. Talbot?

A Yes sir,

Q Did Mr. Talbot know where they were?

A Yes sir.

Q Were you a witness before the Grand Jury which returned the second Indictment against Morrison on the 21st of November 1932?

A I was.

Q Will you state to the Court whether those records were taken before the Grand Jury, or any part of them?

A They were not. They were in my personal possession when the Grand Jury was in session at the time this case was presented to it.

Q You know that to be a fact?

A Yes, I do.

MR. WOODCOCK: That is all, Your Honor.

CROSS EXAMINATION:

BY MR. GRACE:

Q Mr. Herrick, you are familiar with the records and documents seized on those search warrants?

A Quite familiar, yes.

Q Were the records and documents offered in evidence before the Grand Jury when you presented the first Indictment?

OBJECTION: MR. WOODCOCK:

I object. That is irrelevant.

MR. GRACE:

I want to lay the foundation. He is on cross examination.

THE COURT: I sustain the objection.

MR. GRACE: I reserve a bill.

Q Were you present in Court when the motion to suppress the evidence was argued?

A Yes, I believe I was.

Q Did you hear Mr. Talbot state that without the record the Indictment would not -

OBJECTION: MR. WOODCOCK:

Do not answer that. I object.

THE COURT:

Sustain the objection. It is not binding on the government as to what he said.

MR. SLADE:

I except to Your Honor's ruling that we have not the right to show that since the first Indictment, which is identical with the Indictment before this Court -

MR. WOODCOCK:

This is not the same Indictment. I think Counsel is not speaking correctly.

MR. SLADE:

I am sorry. I think my inference is correct.

BY MR. GRACE:

Q Did you appear before the Grand Jury on the second Indictment?

A Yes.

Q Will you please give your testimony?

OBJECTION: MR. WOODCOCK:

I object.

THE COURT:

I will let him give it in substance.

A I do not recall in detail, but Mr. Keyes representing the government, asked various questions, and they pertained, my testimony pertained mostly to the intercepted radio communications, and intercepted telephone conversations, and at that time I think he asked me questions all along that line.

BY THE COURT:

Q Did you testify before the Grand Jury to facts that you had knowledge of, other than such knowledge that you had obtained from an examination of the books and records?

A Yes sir. We were very careful in that particular, and I cautioned the other men not to testify to anything pertaining to the seized records and papers, and I did not let them go up in the Grand Jury room. I kept them downstairs.

Q You did know the other facts and circumstances that you testified to before the Grand Jury?

A Yes, but I did not testify to those facts on the second Indictment.



Q Well, I am talking about the second Indictment?

A No, not on the second Indictment.

Q You did have knowledge of facts pertaining to this case in the second Indictment?

A Yes sir.

Q That you had not acquired by an examination of these books and records?

A Yes sir.

Q And that is the testimony you gave?

A Yes sir.

Q You did not testify before the Grand Jury in this Indictment, as to any facts or information received from an examination of the books and documents?

A I did not.

BY MR. GRACE:

Q When the documents were seized, didn't you make an investigation from these documents?

A There <sup>were</sup> investigations made.

Q And you obtained the information from these documents seized?

A I did not quite get that question.

Q In other words, you seized the documents, from which you thought you could gain a lead to acquire some information to follow it?

A Yes, I did.

Q And in a number of instances you got witnesses by following those leads?

A I presume we did.

Q You used those witnesses before the Grand Jury, didn't you? A No, not those witnesses.

Q Now, Mr. Herrick -

A If I may explain, we used witnesses, of course, which might corroborate the information obtained from the records and documents, if that is what you refer to.

Q To refresh your memory, would you read Overt Act No. 62 into the record? (Counsel hands witness document and witness examines same)

A Yes, I recall that.

Q Read it into the record?

A "That on or about the 11th day of April 1931, at New Orleans, La. within the jurisdiction of this Court, the said Albert M. Morrison had in his possession draft No. 2137 in the sum of \$24,677.16 payable to A. A. Brown."

Q How did you get that information?

OBJECTION: MR. WOODCOCK:

I object. It is not a question of how this witness got his information. It is a question of how the Grand Jury got it, and the Grand Jury had various sources of testimony before it.

THE COURT:

Sustain the objection to the question in that form. I will permit you to ask him if he testified to that fact.

BY MR. GRACE:

Q How did you prove that allegation before the Grand Jury?

A I did not testify to it.

THE COURT: Sustain the objection.

BY MR. GRACE:

Q Do you know who testified as to that Overt Act?

A I got the witnesses together myself. They went before the Grand Jury, and I did not call any witnesses to testify to that fact.

Q There was no witness before the Grand Jury to testify to that fact?

MR. WOODCOCK:

The witness says he does not know that.

THE COURT:

The witness in the very nature of things cannot know that. He has stated he did not testify to it.

MR. GRACE:

Yes, but he says he got the witnesses together. He had charge of the investigation of the case.

Q Mr. Herrick, is it a fact that you had charge of the

investigation of the case?

A Yes sir.

Q You prepared the case to be presented to the Grand Jury?

A I prepared the record in the case.

Q And the witnesses to be called to prove the facts in the record?

A Yes sir.

Q Will you look in your record and give us the names of the witnesses you called who testified before the Grand Jury?

OBJECTION: MR. WOODCOCK:

I object.

BY THE COURT:

Q I understood you to say you did not testify to that fact yourself before the Grand Jury?

A Yes sir.

Q And you did not produce any documents or papers that had any bearing on them?

A No sir, I had papers and documents in my possession while the Grand Jury was in session, but were not given to anybody to take before the Grand Jury.

THE COURT: Sustain the objection.

MR. WOODCOCK:

There is nothing remarkable about it. I can explain to the Court how the Grand Jury got that information,

but it is not necessary.

THE COURT: Sustain the objection.

I will not permit you to ask what every witness testified to before the Grand Jury.

MR. SLADE:

That is not our purpose, Your Honor.

CROSS EXAMINATION:

BY MR. SLADE:

Q You personally obtained most of your knowledge from such information as you got from your subordinates?

A Partially so.

Q And you testified in relation to some of the information which you so secured from your subordinates as a witness before the Grand Jury. Am I not right?

A Yes. The radio communications were intercepted by our radio technician.

Q And based upon what they told you in the record, then you testified before the Grand Jury?

A Yes sir.

Q And that applies also to a number of other facts set forth in the indictment there, information you received from records, or word of mouth from your subordinates, and then presented your view before the Grand Jury?

A Partially, yes.

Q You just answered a question here that you subsequently returned the documents. Did I hear you correctly?

A Yes sir.

Q You know the order provided that not only the documents, but the copies and photostats thereof be returned?

A I do not know.

MR. WOODCOCK:

The order speaks for itself.

MR. SLADE:

Let me have the order. I will call Your Honor's attention to this.

THE COURT:

The issue is not whether the witness complied with the order of the Court, but whether these expressed documents and papers were used before the Grand Jury.

MR. SLADE:

Correct. I learned the District ATTORNEY ASKed the specific question whether the documents were returned to the defendants, indicating the documents were no longer in possession after a certain period. We are trying to show the documents, or copies thereof, should have been returned with the original documents.

Q Did you make copies of the original documents?

A Entries taken of some papers and documents.

Q And you still have those in your possession?



A Yes. I offered to return them as quickly as we could assemble them when I returned the originals, and it was understood by the Attorneys representing Morrison and Goldberg that they were available at any time.

Q But you never returned them?

A No, they were never called for.

Q And from those respective documents, both you and your subordinates got certain information?

A There was information contained in those documents?

Q And that information was embodied in the supposed record you testified you made??

A The first record, but not the second record for the second Indictment.

Q In other words, they were not given to the District Attorney at all?

A They were not included in the second report.

Q Did the District Attorney who had charge of these matters before the Grand Jury, did he have knowledge of these facts relating to documents and information you secured thereby, and do you know whether any of the information <sup>so</sup> ~~was~~ secured and in his possession was used before the Grand Jury?

OBJECTION: MR. WOODCOCK:

Objected to.

THE COURT:

Sustain the objection. Can you show where there was some improper regard of the Court's order about these documents?

MR. SLADE:

I do not think we made ourselves clear. We tried to show in the absence of these documents and information secured therefrom, there was no evidence before the Grand Jury upon which this Indictment could rest, and that is the purpose of our question, to see what information was secured from these documents, because the Indictment as I see it, alleges facts compared with the documents.

THE COURT:

I will sustain the objection and give you an exception.

MR. SLADE: Exception.

Under Your Honor's ruling, of course, we cannot proceed further with this witness.

THE COURT:

I will permit you to go further about these documents before the Grand Jury, but you are trying to show some information in the documents may have found its way before the Grand Jury. That might be true; there may be many things in the documents the witness had knowledge of independent of the document.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Mr. Herrick, you did a great deal of subsequent investigation in this case?

A Yes sir.

Q You interviewed yourself some of the defendants?

A Some of the defendants?

Q Yes.

A At the time of their arrest, yes sir.

RECROSS EXAMINATION:

BY MR. GRACE:

Q You read over the petition we filed this morning, the plea of abatement?

A Yes sir.

Q You read over the answer the government filed?

A Yes sir.

Q And you swore under oath -

MR. WOODCOCK:

The record shows what the witness swore to.

BY MR. GRACE:

Q You read that? A I read it entirely.

Q What did you base your knowledge on in swearing to that affidavit?

A Because I had physical possession of those papers all

the time the Grand Jury was in session and I know they did not go before the Grand Jury.

Q How do you know the information gained from these documents was not before the Grand Jury?

MR. WOODCOCK:

There is no allegation to that fact.

MR. GRACE:

Yes, there is.

Q How do you know there was no information obtained from these documents before the Grand Jury?

A If I may answer, I will state it this way, that I got the witnesses together that were to go before the Grand Jury, and I picked the witnesses that had no knowledge of this documentary evidence to my knowledge. They may have gotten it from some other source, but they never got it from papers in my possession. Although I had witnesses, a few witnesses, that had that information, I cautioned them not to testify to anything about the documentary papers.

Q How did you know about these witnesses?

A In the investigation. You see we had wire taps on these telephones and we would get a lead on the station we investigated subsequent to the arrest, and those were the witnesses which we called. We did not call witnesses

pertaining strictly to the documents.

Q Some of those records remained in the District Attorney's office?

A They were returned to you.

Q I mean before they were returned, some were in the District Attorney's office and some in your office? I understood you to say that.

A No. Certain times they were at the U. S. Attorney's office, and when not over there they were in my office.

Q They were not returned until the present Indictment was filed?

A They were returned a day or two after the order was issued. I do not recall the date.

BY THE COURT:

Q You had charge of the alleged conspiracy when the investigation was going on?

A Yes sir.

BY MR. GEX:

Q Did you have other agents with you?

A Yes sir.

Q You said something about wire tapping; did you hear some of those conversations yourself?

A Yes. I was out on one or two occasions and visited the men listening in and I put the head set on, but I am not a material witness to the intercepted

conversations.

Q The agents working under you/<sup>who</sup>were carrying on this wire tapping, do you know if they appeared before the Grand Jury under this second Indictment?

A Yes, and they are here present in the Court room.

Q Do you know how many witnesses?

A The list is right there. I think there are 15 or 20, as I recall.

Q All agents of yours?

A Not all agents, but we had practically all our agents.

Q About how many agents did you have here carrying on this investigation, securing information?

A About seven or eight.

Q Do you know of your own knowledge that they did appear before the Grand Jury in this investigation on the present Indictment?

A I think possibly all but one or two of them.

BY MR. GEX:

Q Will you read them, please?

A Charles Andres.

BY MR. WOODCOCK:

Q He is a citizen here? A Yes.

BY MR. GEX:

Q Who are the others?

A Leverne Baker, resident of Kiln, Roy Kelly, Murray, Agent Nabors, Lamar Otis, a resident of Bay St. Louis,



Waldo Otis, M. T. Haas -

Q He is also a defendant, isn't he?

A I think he is. He was in the first case. I do not know about the second. There are some other names here.

BY MR. SLADE:

Q That is on the first or second Indictment?

A That is the present Indictment.

BY THE COURT:

Q You know those agents obtained information regarding this alleged conspiracy set out in the Indictment?

A Yes, before and after the Indictment, before the papers were seized.

BY MR. GEX:

Q Mr. Herrick, those are the only witnesses who appeared before the Grand Jury when this Indictment was filed?

A I am just reading from the Grand Jury docket.

Q You said you handled the case and secured the witnesses?

A We had a lot more witnesses. We did not call them all -

OBJECTION: MR. WOODCOCK:

I object. This witness cannot possibly testify to more than he knows.

BY THE COURT:

Q You do not know how many more witnesses may have gone before the Grand Jury?

A No sir.

BY MR. GEX:

Q Didn't you say that was all that appeared before the Grand Jury?

A According to the record.

Q Didn't you handle the making of the case before the Grand Jury? A Yes.

Q Then you know what witnesses went there?

A Not necessarily. I was not present all the time. They could have called several while I was out. I would go in the other office to telephone and I do not know all the witnesses who went before the Grand Jury.

BY MR. GRACE:

Q Mr. Herrick, so far as you personally are concerned, the first knowledge you had - that check you refer to obtained from Morrison, was obtained by the search and seizure? A Yes.

Q Did you make any statement before the Grand Jury as to what the facts would show? A No.

Q Just testified solely as a witness. Did you make any statement to the Grand Jury as to what the facts would show?

A No. I believe I read a section of the report.

BY MR. SLADE:

Q Part of what report, your report? A Yes.

Q Based upon testimony or information conveyed to you

by your subordinates?

A No, investigations where various telephones were tapped.

Q In other words, your conclusion from information you secured from your subordinates, you read that to the Grand Jury?

A No.

OFFER: MR. GRACE:

I offer in evidence, in support of our petition, the Indictment referred to in our petition, and the whole record referred to in our petition, as evidence.

OBJECTION: MR. WOODCOCK:

I donot think it shows anything. I object. I think the Indictment was returned by a former Grand Jury.

THE COURT:

I sustain the objection as to the former Indictment.

MR. GRACE:

We reserve a bill of exception.

- - - - -

E. E. TALBOT: Witness, being duly sworn and examined on behalf of the government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A E. E. Talbot.

Q You are the United States Attorney for this District?

A Yes sir.

Q You are familiar with the motion to suppress the evidence and the order suppressing it?

A Yes sir.

Q And then the appeal, and then the order impounding the evidence in your custody and documents to Mr. Herrick?

A Yes sir.

Q Will you state whether any of the documentary evidence which was ordered suppressed went into the Grand Jury room at all, at the time of their consideration of the second Indictment against Mr. Morrison and his associates on the 21st of November 1932?

A As far as my knowledge goes, none of that evidence was presented to the Grand Jury. I make that statement with this qualification. None of the physical documents could appear before the Grand Jury, because Mr. Herrick brought them down and left them in my office, part of the time in my possession, because I prepared the first Indictment and presented the case before the Grand Jury. Later, at times I had occasion to have recourse to them, and if my memory serves me correctly, Mr. Herrick brought the documents from his office to my office the morning of the presentation, so he could not have control over them at the time he left them in my custody.

Q And you know they did not physically go into the

Grand Jury? AThey did not.

CROSS EXAMINATION:

BY MR. GRACE:

Q You referred to the first Indictment. I show you -

OBJECTION: MR. WOODCOCK:

I object to any testimony regarding the first Indictment, if Your Honor please.

MR. GRACE:

He brought that out on direct examination. I think we are entitled -

THE COURT:

I think that was a voluntary statement on the part of the witness.

MR. GRACE:

I would like to state in the record this, that with reference to the previous Indictment and the Indictment here charging conspiracy <sup>is</sup> the same conspiracy insofar as these defendants are concerned, and it is our purpose to show that the government solely relied upon the documentary evidence seized from the defendants herein as the sole evidence to support their Indictment.

THE COURT:

That might be true as to the first Indictment. Sustain the objection.

BY MR. GRACE:

Q You did not appear before the Grand Jury?

A No. I think all I did was to take Mr. Keyes who handled the case the second time before the Grand Jury, and introduce him and present his qualifications.

CROSS EXAMINATION:

BY MR. SLADE:

Q Did you give Mr. Keyes all the information and data you had for his inspection, and turn over the documents to him so he could go to the Grand Jury with them?

OBJECTION: MR. WOODCOCK: Objection.

THE COURT: Sustain the objection.

MR. SLADE: Exception.

MR. WOODCOCK:

May it please the Court, I think we have shown abundantly <sup>by</sup> the best possible evidence that these documents did not go into the Grand Jury room, and secondly, there were other competent witnesses before that body, and I think the presumption is all in favor of the Grand Jury having the proper evidence before it when it did return the Indictment.

MR. SLADE:

In view of Your Honor's ruling, of course, we can go no further. Will Your Honor grant us an exception?

THE COURT: Yes, on behalf of both defendants.

MR. SLADE:

On behalf of Morrison and Goldberg?

THE COURT:

Yes. I will not permit any kind of plea to be filed for a defendant that is not in Court.

MR. GEX:

If the government is proceeding on the second Indictment and the other charges the same offense, we move the other Indictment be dismissed.

THE COURT:

Overrule the motion.

MR. GEX: Exception.

MR. WOODCOCK:

There is no mystery about it. We are going to proceed under Indictment No. 16,981, dated the 21st of November.

THE COURT:

That is the only Indictment, as I understand against the present group of defendants.

MR. WOODCOCK: That is correct, Your Honor.

THE COURT:

You have your motions both overruled.

MR. GEX: I reserve a bill.

MR. WAGUESPACK:

I have a motion here that the Indictment does not state the facts sufficient to charge an offense

against the laws of the United States, and second -  
(Reading document to Court)

THE COURT:

Is that a demurrer or a motion to quash?

MR. WAGUESPACK:

This is a motion to quash.

MR. WOODCOCK:

On whose behalf is it filed?

MR. WAGUESPACK:

It is filed on behalf of everybody. I will give you  
a copy of it.

THE COURT:

You can file the motion and the motion will be over-  
ruled.

MR. WAGUESPACK:

I have not finished reading the document to Your  
Honor.

THE COURT:

I am familiar with your motion.

MR. WAGUESPACK: We reserve a bill.

MR. WAGUESPACK:

We have a bill of particulars of about two pages.

THE COURT:

That comes too late. Motion denied.

MR. GEX:

If your Honor please, we may have an exception, may



we not?

THE COURT: Yes.

MR. GRACE:

Will Your Honor reserve us bills of exceptions on all your rulings?

THE COURT: Yes. Call the defendants for arraignment.

MR. GRACE:

We waive reading of the Indictment on behalf of the defendants I represent, and plead not guilty.

MR. HOLLINS:

I join in that and plead not guilty for my clients.

MR. TALBOT:

Leon Fox wants to plead guilty, and will be a witness for the government.

THE COURT:

State to him what the charge is.

MR. GEX:

I have nothing to do with this fellow, but I will state to Your Honor he is a half wit, and I think the Indictment ought to be read to him.

MR. TALBOT:

I object. He said he had nothing to do with the man. He is plainly out of order.

THE COURT:

Come around here? (Leon Fox goes to the Court)

THE COURT: (Explains the charge against him)

I think I had better assign Counsel for this defendant.  
Will there be any conflict in any of these gentlemen  
representing this man?

MR. GEX:

I represent all the others from Mississippi and I will  
represent this man, and I do represent him.

THE COURT: All right.

(ALL DEFENDANTS ARRAIGNED AND PLEAD NOT GUILTY)

THE COURT:

I want to say to the defendants it is necessary for you  
to be present throughout this trial. You must keep  
informed as to the hour that the Court convenes in  
the morning and after lunch, and each of you will be  
expected to be present promptly. Any delay by your  
absence you will be ordered into the custody of the  
marshal, and there may be a forfeiture entered against  
your surety on your bond. You had better be careful  
and be on hand throughout this trial. The Court will  
now take a recess until 2:30 P.M.

Adjourned until 2:30 P. M.

- - - - -

2:30 P.M. AFTER RECESS:

(JURORS SELECTED AND SWORN IN)

THE COURT: I am going to organize an alternate juror in this case.

(William Forsyth selected as 13th juror)

THE COURT:

Let the minutes show that the Court is of the opinion that the trial is going to be rather a protracted trial and for that reason have organized an alternate juror.

Mr. Forsyth, as alternate juror you will have a seat and listen to the testimony and give attention to it and the instructions of the Court, just as though you were a regular juror until the case is finally given to the jurors in charge by the Court, and if any juror is disabled or drops out for any cause, then you will deliberate in the final case. You are to take the place of any juror who for any reason has to drop out.

MR. WOODCOCK:

As to Leon Fox, the government will enter a nolle prosequi. I will ask that subpoena be issued for him and that he be sworn as a witness for the government.

THE COURT:

He will be sworn when the other witnesses are sworn.

MR. GEX:

The jury has been empanelled now, and I think he is entitled to the jury's verdict.

MR. WOODCOCK:

I do not believe Counsel can represent the defendant, particularly if the government chooses to nolle prosecute the case, and put him under the possibility of being convicted.

MR. GEX:

It is still my case.

MR. WOODCOCK:

I think it is entirely under the control of the government to nolle prosecute any of them.

(ARGUMENT)

THE COURT: You may have an exception.

MR. GEX: Exception.

MR. GRACE:

I ask that the witnesses be sworn and separated, and charged not to discuss the case during the trial.

THE COURT:

Oh yes. I will do that when they are sworn. Call the witnesses and let them be sworn.

MR. WOODCOCK:

I would like this man Leon Fox be sworn as a witness.

MR. GEX: He is with the other witnesses. We would like to have a subpoena issued for him for the defendants also. We did not do that because he was a defendant until a few minutes ago.

THE COURT: All right.

(Witnesses sworn and put under the rule)

THE COURT:

All the witnesses will be under the rule. The effect of that is you must be on the outside of the Court room throughout this trial, and you are not permitted to come in after you testify, and one witness must not talk to another witness about the nature of his or her testimony either before testifying or afterwards, or with any other person.

There is one exception to that rule. The witnesses are permitted to talk about their testimony and the nature of their testimony they will give, to their Attorneys in the case, but not in the presence of another witness when he is talking to the Attorney. You must be taken aside and not discuss your testimony in the presence of other witnesses.

The government representative will call over the names of a few witnesses to remain through the afternoon, and all the other witnesses will then be discharged until nine o'clock in the morning.

(Names of witnesses called that will remain in Court)

THE COURT:

The witnesses whose names were called will remain until Court adjourns. The other witnesses may go until

nine o'clock tomorrow morning, and I will ask you witnesses to keep where you can come in promptly when you are called.

- - - - -

STATEMENT OF MR. WOODCOCK TO THE JURY:

May it please the Court and gentlemen of the jury, this is the trial of Albert M. Morrison, who is sometimes called Charles Cosgrove, also called M. Ryder, also A. A. Brown, also Harry Hale, also J. J. Jones, also B. M. McGregor.

The next defendant is Isadore Blumenfeldt. Mr. Blumenfeldt is not on trial because he did not appear, and to that extent - I am in error - he is one of the defendants in the Indictment, but he did not respond this morning.

The next one who is present is Louis Cameron. Then comes Silvestro Carolla. He is sometimes called Sam Carolla, or Silva Carolla. Then comes Jim Dantzler, Henry Dandridge, Sam Dandridge, Booker Gaines, John Garcia, Nathan Goldberg, also known as Lou Meyers, also known as Alfred Meyers, or Nate Meyers, or L. Brill; Alfred Jackson, Felton Le Bouef, Buster Malini, Tom Malini, Charles Martin, Ray Miller, Leander H. Necaize, Joseph L. O'Neal who is sometimes called J. J. Jones and also E. A. Smith; Merchant

D. O'Neal, also known as F. R. Buckley and J. J. Jones, Frank Ritter, Jr. and Pascal Tuminello.

There are some others named in this Indictment who are not present, and there are also some others named in the Indictment as conspirators but not as defendants. I do not believe that I will take the time now to call over those other names, because I doubt if you could retain them in your memory. I will try to make this thing clear though as we go along so that you will have a picture of each defendant.

These gentlemen are charged with conspiracy, which under the Federal law becomes an offense, or a crime when it is a conspiracy to commit other Federal offenses, - -

OBJECTION: MR. GRACE:

If the Court please, I do not like to interrupt, but I think now he can only state what he attempts to prove, and Your Honor will state what those facts are under the law. He is really arguing his case before the jury.

THE COURT:

I think not. Overruled.

MR. GRACE:

I take a bill of exception.

MR. WOODCOCK: (Continuing)

The charge, gentlemen, in the Indictment is conspiracy to do three or four things. The first, to unlawfully import and bring into the United States large quantities of intoxicating liquors. Then the unlawful possession, sale, barter, furnish, and transportation of said intoxicating liquors in the United States, particularly in Southern Louisiana, Mississippi, Texas, Illinois and other places. I am reading, I may say, from the Indictment itself. The language is the language of the Indictment;

Third: To unlawfully, and with intent to defraud the revenue of the United States to smuggle and clandestinely introduce into the United States, import and introduce into the United States from foreign countries, certain merchandise, that is large quantities of intoxicating liquors, and then that the defendants would receive, sell and facilitate transportation, concealment and sale of these intoxicating liquors unlawfully brought into the United States;

And further, that defendants would use and operate certain apparatus for the transaction or transmission of messages by signals which we call radio, to facilitate these unlawful operations, the messages going to vessels upon the high seas and foreign



countries, more particularly Belize, B. H., doing this without having the license which legitimate radio operators are required under the law to have.. There you have got the conspiracy to do these unlawful acts. Now the Indictment goes on to explain more completely just how this conspiracy was to operate.

It shows first that the premises described as Apartment No. 1, at 7530 St. Charles Ave., and Apartment No. 1, at 3227 Canal St., and Apartment No. 1-A at 1448 Jackson Ave., 4118 General Pershing St. and 4509 SO. Derbigny St., in New Orleans, would be rented as offices and headquarters, you see, where said conspirators and defendants, could and did meet and congregate, where telegrams, written orders, and so forth, for the purchase and sale of whiskey, gin, brandy and various other kinds of intoxicating liquors could be solicited, received and arranged.

Then as a part of the conspiracy, we charge sums of money sent to Montreal, Quebec, Vancouver, B.C., and various other places without the jurisdiction of the United States, said money to be used for the payment of shipments, and importation into the United States of such intoxicating liquors, and then the intoxicating liquors so purchased would be smuggled into the United States for the purpose of sale, without any manifest,

without customs inspection, without filing invoices at the Custom House.

Fourth: That the intoxicating liquors would be sent and brought from various places in the Dominion of Canada, St. Pierre, Bermuda, Belize, B. H., and other ports beyond the territorial jurisdiction of the United States by means of ships commonly called rumrunners, some of them named the Concord, Corozal, Fisher Lassie, General Tosta, Rosita, Marshall Frank, Miss Carmen, Mavis Barbara, and so on, and I will say the three ships that stand out most completely, is the Mavis Barbara, the Rosita and the Fisher Lassie. Those are the three ships that stand out more completely, and then the said intoxicating liquors were transferred from the said ships or boats commonly called rumrunners, to smaller boats and transported into the United States, and thus landed at various points and places on the Southern Coast of the United States, more particularly on the banks of the Jordan River at a landing known as Holden's Landing, near Kiln, Hancock County, Miss., and another place called Indian Village, and other landings on bayous, bays and rivers.

Then the intoxicating liquor thus landed would be loaded into various motor trucks and transported to

various and sundry stores called staches or drop, here in New Orleans, Orleans Parish, La., and then portions of the liquor would be delivered by automobile, trucks and railroad box cars falsely packed, would be transported and delivered into the interior of the United States, particularly the midwestern section. That it was a further part of the cinspiracy, that the deffendants would see it, supervise the moving of said box cars, vessels, trucks, automobiles, railroad box cars, by means of telephone conversations, telegrams, and cablegrams, and the United States mails, and that certain apparatus for the purpose of sending radio messages would be installed and used, particularly at a place on Gladiolus St., known as 2748. Then this radio apparatus would be secretly used in broadcasting unlawful communications and in receiving such unlawful communications, an illegal radio station, socalled amateur band, without keeping a log as provided by the Federal Radio Commission, in reference to operations.

Then a s ecret code was used in sending and receiving these radio messages from ship to ship at sea, from the rumrunners to the smaller ships, and said messages broadcast and received would have to do with liquors, as to the time of arriving of the

rumrunner and landing of large quantities of intoxicating liquors from said rumrunners into the United States by means and manner aforesaid.

That it was a further part of the conspiracy that the defendants kept books and records of their unlawful liquor transactions, collected money by means of drafts, checks, cablegrams, telegraph, necessary to engage in the business of clandestinely and unlawfully smuggling said liquor into the United States, and thereafter transporting and selling the same for beverage purposes.

Then the Grand Jurors have found some 63 so-called Overt Acts which were done in order to carry the conspiracy into execution, so you have got your Indictment describing the conspiracy, what it was to accomplish, the general organization and nature of it, and then these overt acts which were done to carry it out. If we prove that a single one of these overt acts has been done in furtherance of the conspiracy, it will be sufficient.

Now, the evidence will -

MR. GEX:

One overt act will be sufficient? Isn't it a question of law rather than fact. He says one overt act is sufficient.

THE COURT:

He can state the principle of law.

MR. GEX:

Your Honor rules in his statement of facts to the jury he can tell them the law too?

THE COURT:

He can state the principle of law. It is not necessary to prove all overt acts. One is sufficient.

MR. SLADE:

We take an exception.

MR. WOODCOCK\* (Continuing)

Now, the evidence generally will show that sometime in the Fall of 1930, the first named defendant, Mr. Morrison, came to New Orleans from the Dominion of Canada and started operations here, bringing in liquor owned by the Canadian Distillers, transshipped by them to Belize, B. H., then loaded on these rum-runners there, directed by this radio apparatus to the vicinity of New Orleans, and then loaded on the smaller boats, which will appear most distinctly in this testimony, the Nonpareil, the Princess and the Talvez, then unloaded at Indian Village, at Kiln and other places, thence some of it loaded into box cars waybilled as lumber and shipped as far as Chicago; some of it shipped by truck; some of it

shipped by rail. Mr. Morrison was introduced by Mr. Joseph O'Neal, another one of the defendants, to one of your amateur radio operators named Mr. Charles Andres, who had a sending apparatus. He was licensed to do amateur work, but he was not licensed to do this kind of transmission to ships at sea.

Morrison furnished him with a code of call letters for Belize, and for the Barbara and for the Fisher Lassie, so that he could send these messages in code at Morrison's directions, and also receive the messages so that Morrison could conduct this conspiracy by radio and by the telephone on land. Andres began apparently to send these messages sometime in the latter part of January 1931, or the early part of February 1931, and the first charge manifestly of what was going on, the physical result of this combination or plan, occurred up at a place near Kiln, which is on the Jordan River, and the Jordan River, as you know, in the United States, flows up from the Bay up to Bay St. Louis, and about ten or twelve miles above that river is a little village called Kiln, I think a little lumber town. About that time, in January or February, the two O'Neals and Goldberg, Joseph O'Neal and Merchant O'Neal, and Goldberg, went to Bay St. Louis and got in contact with some responsible

gentlemen there named Otis, Waldo Otis, Sidney Otis and Lamar Otis. Mr. Waldo Otis conducts a hotel there at Bay St. Louis, and his brother is in the lumber business, one I mean having something to do with the managing of a logging railroad and the other there in the lumber business. They under the names of Jones and Buckley and Myers, not using their own names, arranged with the Otis' to buy lumber, and to haul it over to a place I will describe as the Pecan Farm, which was on a little logging railroad, to haul this lumber over there.

Now, at the same time they were arranging through a man named Necaize, and a great many of these other defendants, to bring in liquor by the boat called the Nonpareil, bring her in with a load of liquor gotten from the Barbara or Fisher Lassie, or one of the other boats in the Bay of St. Louis, up Jordan River up to a little landing called Holden's Landing, a dismal place - I do not mean to say a dismal place, but as lonesome a place as you can imagine.

They engaged all the local people there - not all of them, but a number of them - to unload the liquor and put it on the trucks and carry it over ten or twelve miles to the vicinity of this Pecan Grove, rather Pecan Farm, where it was loaded in box cars,

and the rest of the car filled up with lumber, so it would pass as a carload of lumber, and waybilled as lumber, carried over to Ansley by the switch engine, which is on the main line of the L&N Railroad, and thence it became a part of the commerce of the United States. Now, we do not know, we cannot prove what became of those cars. Some six or eight were shipped in this way. One of them were intercepted at Ansley, Miss. which was just a few miles after it started, and that liquor recovered was a large load of imported liquors.

Another one of these cars was overhauled by the prohibition people at Evansville, Ind. on its route to Chicago and that cargo was captured, but what went with the others we do not know.

As I say, they were shipped, waybilled by this man J. J. Jones, whom the testimony will show was Joseph O'Neal, and whom the testimony will show was the righthand of Morrison in these larger transactions. Now, to give you again some names, so we will not be entirely at sea, the people who were in the unloading end, don't you see, up at Kiln; you have got your contact of the O'Neals and Goldberg with Morrison here in New Orleans, and the people who unloaded the stuff and transshipped it, were Henry



Dandridge, Sam Dandridge, Jim Dantzler, Booker Gaines, Talbot Green, Alfred Jackson, somebody by the name of Lee - I will tell you his name in just a minute, I can't read my own handwriting just at this time - Blaine Lee, Charles Martin and Ilos Parker.

Then there were three of these men up there who had control of the boat, the Nonpareil, that is the three brothers called Malini. One of them did not recall to his name this morning, so we are trying only two. Buster Malini did not come.

This Nonpareil which brought the liquor up there is a boat of the lugger type. She was finally captured by the government. She was built in the winter of 1930-1931, and it is interesting as showing how the interlocking of this large conspiracy, that when they needed an engine to put in her at the shipyard in Biloxi, I believe is the place she was built along the Gulf Coast, this same pair, Morrison and O'Neal, telegraphed \$1,000 from one of your local banks up to the builder, to put the engine in her, to pay for the motor. Then when the boat was repaired, this man, Felton LeBouef, the testimony will show, was in charge of her.

Now, that is perhaps not a very clear outline of the first of these incidents which revealed to the

government what was going on, that is, the unloading at Kiln, Miss. At the same time that that operation was going on, there was a somewhat similar, but so far as the evidence will show, less pretentious operation going on at Indian Village, which is in that same section. There the people who were actually identified as doing the work, was this Merchant O'Neal and a man named Garcia, Carrolla and Todaro, and the boat involved in that case was the Princess, a boat similar in almost every respect to the Nonpareil, both of the lugger type.

The Princess was seized and forfeited on March 9th. The testimony will show that when she was repaired, this man Jules Collins, whom we believe was Jules Le Bouef, and Felton Collins, whom we believe was Felton Le Bouef, and Merchant O'Neal, were in charge of those repairs.

Then the Talvez, another lugger was seized on the 15th of March with a load of liquor from these ships at sea, and she was in charge of another one of these defendants, Felton LeBouef.

Now, you might say that the government intervened in this case on April 11, 1931, by arresting most of these defendants, but the thing did not stop.

As late as March 18, 1932, a great quantity of this imported liquor was seized right in the city of New Orleans at 2831 Rampart St., a number arrested, and those who were in charge was this same Goldberg and Merchant O'Neal. - -

MR. WAGUESPACK:

This is going out of the Indictment and has nothing to do with this Indictment.

THE COURT:

I understood Counsel to say this was in the early part of 1932, and the Indictment is 1932.

MR. WAGUESPACK:

That is true, but that has nothing to do with the charge.

THE COURT:

As I recall it was a continued conspiracy down to the return of the Indictment.

MR. GRACE:

On behalf of Nate Goldberg, we enter a plea of jeopardy, and make ~~the~~ part of our plea the Indictment, with particular reference to the charges that he refers to at Rampart St. If that is a part of this conspiracy, we plead form of jeopardy on behalf of Nate Goldberg.

MR. O'NEAL:

We make the same objection in the name of Merchant D. O'Neal.

THE COURT:

If you are making an objection to the statement of Counsel I overrule it.

MR. SLADE:

Objection, Your Honor.

THE COURT: Overruled.

MR. GRACE:

We reserve a bill on behalf of all defendants.

MR. WOODCOCK: (Continuing)

There were small seizures, which I mention only in passing without going into details. As a result, on September 5, 1930, there was a truck load of this liquor seized at the Reggio Club in New Orleans, and on November 15, 1930, there was an automobile load of this liquor, that automobile belonging to Merchant O'Neil, seized in Houston, Texas, with a similar load of imported liquors.

It is a difficult case to make clear, and if I have gone too much into details, I certainly apologize.

There are just a couple of other incidents I want to call the jury's attention to. On April 7, 1931, we find Morrison purchased a truck, not an automobile

truck, but one of these hand pushing trucks for the delivery of liquor, at that time going under the name of J. J. Jones. That name, J. J. Jones, as you will see, has been used by at least two, and perhaps three of these different defendants.

Now then, in closing, just a word as to the extent of this conspiracy, and the magnitude.. Here we can take Morrison's own words. On April 1st, he said to a friend that he had sold 40,000 cases in the five months he had been here, and on April 5th 1931, he told a gentleman in Montreal with whom he was speaking, that he had sent 600 grand, which I believe the translation is \$600,000 to Canada for the profits of his operations here.

Now gentlemen, that money, I do not know if we can prove how he transmitted all of it. I will give you Morrison's word as to the extent. This was not a business which was transacted in the open. Every device known to human ingenuity was resorted to, to cover up and conceal these operations, but the testimony will show that something like a quarter of a million dollars was transmitted by one source from New Orleans to Vancouver, B. C.

Now I have, perhaps imperfectly, given you a bold picture of this case. If I may sum up, it was a

conspiracy to bring liquor into the country unlawfully by these various means, and to distribute it in a great commercial organization doing \$600,000 of business in a few months by the methods that the evidence will reveal.

If you believe - I say this in closing and I believe the Court will instruct you accordingly - if you believe this plan existed as I have given it to you, and you find a single one of these overt acts have been committed, it is your duty to find all participants in the conspiracy guilty.

If I may say one more word of our theory of the law in this case, you do not have to find every one of these defendants knew every other one. What you do have to find, is this general concerted action to bring liquor into this country and distribute it as I have suggested.

OBJECTION: MR. SLADE:

I take an objection to his conception of the law which he has stated to the jury, and his conclusion therefrom.

THE COURT:

I will give you an exception. I overrule your objection.

- - - - -

CHARLES ANDRES, Jr. Witness, being duly sworn and examined on behalf of the government testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Charles Andres, Jr.

MR. WOODCOCK:

I would like Mr. Herrick, who is more than a witness in this case, be permitted to stay in the room. He is responsible for the witnesses, and I do not believe I can get along very well without him.

THE COURT:

He is the only witness asked to be excused from the rule?

MR. WOODCOCK:

Yes, Your Honor.

THE COURT: He is excused.

BY MR. WOODCOCK:

Q You live in New Orleans? A Yes sir.

Q How long have you lived here? A All my life.

Q What is your occupation? A Radio Technician.

Q Radio what?

A Technician, servicing and demonstrating radio receiving sets.

Q Do you know the defendant Joseph O'Neal in this case?

A I can recognize Mr. O'Neal.

Q Who is Mr. O'Neal?

A He is not there.

Q I would like this witness to come down. There are some people standing in the view of the others. Step down and see if you can point him out. Take your time. Get off the witness stand, please?

A I don't see him.

Q Get down and look the defendants over?

A (Witness stands up) I still don't see him.

Q Come down here?

A (Witness does as requested) I don't see him.

Q Come over here? (Indicating)

OBJECTION: MR. SLADE:

I do not think that is fair. He has taken the witness stand and he has gone through the Court room -

THE COURT:

Overrule your objection. Go ahead and see if you can find him?

A (Witness does as requested) I still don't see him.

BY MR. WOODCOCK:

Q Well, get upon the stand again. Did you have any conversation with a man giving the name of Joseph O'Neal in the Winter of 1931?

A Yes sir.



Q Where did he live?

A I can't vouch for his home. He was located in the city.

Q Did he tell you where he lived?

A No sir. I went to one home of Mr. O'Neal, but I did not see Mr. Joe O'Neal there. The man whom I met was a very old man.

OBJECTION: MR. SLADE:

I object to that as not binding upon the defendant; no identification; no foundation.

MR. WOODCOCK:

What is the nature of the objection? The witness is just beginning to testify.

THE COURT:

He cannot testify to what he was told. Sustain the objection.

BY MR. WOODCOCK:

Q Where did Mr. Joseph O'Neal tell you that he lived?

OBJECTION: MR. SLADE: Objected to.

THE COURT: Is he a defendant?

MR. WOODCOCK: Yes sir.

OBJECTION: MR. SLADE:

There is no identification of the defendant and I submit that the evidence is not admissible.

MR. WOODCOCK:

I ask the Court and I repeat the request that these defendants be segregated from Counsel.

THE COURT:

Is Mr. O'Neal in the Court room?

MR. WOODCOCK: Yes, Your Honor.

THE COURT: Stand up?

MR. HOLLINS: I object. I ask that the witness be removed from the Court room first.

MR. WOODCOCK:

The situation here is the bulk of the defendants are not where they should be, some being mixed among the Counsel. I do not know all of them myself.

THE COURT:

I will permit the witness to retire and make all these defendants get segregated from their Counsel where they can be pointed to and permit Counsel to point out and ask the witness if he knows the man.

MR. SLADE:

I ask for an exception on the ground it is not the proper method of identification.

THE COURT:

The witness might not be able to find the man in the crowd. Step down from the witness stand and go out.  
(Witness leaves Court room)

THE COURT:

I will ask that chairs be provided and let all the defendants sit down.

MR. HOLLINS:

At least there should be more than one man pointed out to the witness.

THE COURT:

Let the defendant, Joseph O'Neal stand up?  
(Joseph O'Neal stands up)

MR. WOODCOCK:

There is no reason why he cannot sit with the other defendants.

MR. GEX:

He is in a row separated from us.

THE COURT:

You may recall the witness and point him out and ask him if he knows him.

MR. WOODCOCK:

May I repeat my request that these defendants be segregated from Counsel?

MR. GRACE:

I think that is a violation of their Constitutional rights.

MR. WOODCOCK:

It is no violation of his rights.

MR. WOODCOCK:

Why make a distinction of these poorer defendants -

THE COURT:

I will permit you at any time during the trial to have the defendant identified in the Court, and you can direct the witness' attention to him, even though sitting over there at the table.

OBJECTION: MR. SLADE:

And may the record show we make the additional objection on the ground that is forcing the defendant to give evidence against himself in violation of the Constitution.

MR. WOODCOCK:

I am not forcing him to do that.

THE COURT:

I am only having the defendants identified for the identification of Counsel for the government and the Court's identification.

MR. SLADE:

Yes, I appreciate that, but I am trying to put on the record that you are directing the defendant to stand up for the purpose of directing the witness to look at him when he cannot identify him.

THE COURT:

No, he is being required to stand up so Counsel can

get an identification of him. I will permit him to direct the attention of the witness to the defendant.

MR. WOODCOCK:

May I ask who this gentleman is at the end of the table?

MR. WALLACE:

I happen to be a practicing Attorney at this Bar.

MR. WOODCOCK:

I think the Lawyers should be separate from between the defendants. (Separation made)

THE COURT:

Now, I will not require the defendant to stand up in order that the witness may identify him, but will permit the witness to look and see without the defendant being pointed out, or will permit you to point him out and ask the witness if he had any transactions with that defendant.

MR. SLADE:

Not referred to as a defendant, just merely pointing out the man?

THE COURT:

Counsel has the right to refer to him as a defendant. That is not requiring the defendant to give testimony against himself.

MR. SLADE: Exception.

(Witness returned to Court room)

BY MR. WOODCOCK:

Q Did Mr. O'Neal introduce you to anyone else in connection with your radio business? A . No sir.

Q Will you state whether or not he introduced you to a man named Morrison? A No sir.

Q Did you ever have any contact with a man named Morrison? A Yes sir.

Q Well, how did you come to know Mr. Morrison?

OBJECTION: MR. SLADE:

I object; no foundation has been laid.

THE COURT:

Unless you connect him with one of these defendants, I will sustain the objection.

BY MR. WOODCOCK:

Q Do you see this gentleman on my left here? (Indicating)

A Yes sir.

Q Do you know him? A Yes sir.

Q What is his name? A Mr. Morrison.

Q Did you ever have any dealings with him?

A Yes sir.

Q When was that?

A In the first part of 1932, Carnival day to be exact.

Q What did you undertake to do for Mr. Morrison - you

mean 1931, I assume?

BY THE COURT:

Q Was it 1931 or 1932?

A 1931, Carnival day of 1931.

BY MR. WOODCOCK:

Q You mean Mardi Gras? A That is correct.

Q Do you remember what month that came in? A February.

Q In February you met this gentleman here? (Indicating)

A Yes sir.

Q Now, what did he say to you and what did you say to him?

A I asked <sup>for</sup> Mr. Burk, B u r k, in a home in the uptown section of the city - a gentleman with white hair in a bath robe presented himself to me as Mr. Burk, and I gave him a message, that is a piece of paper that had four or five code words on it and he accepted it from me.

Q Who was Mr. Burk?

A The man sitting on your left.

Q You mean the man you identified as Morrison a moment ago?

A Yes sir.

Q He gave you his name as Burk?

A Yes. I didn't know his name was Morrison until the day we were arrested.

Q Do you remember the date you were arrested, the approxi-

mate date? A In April.

Q And you knew this gentleman as Burk all this time?

A Yes sir.

Q Now, what were you doing for Mr. Burk?

A Directing radio messages from New Orleans here to certain unknown points.

Q Who told you to go to this place and give a message to Burk in the first place?

A A man over the telephone whom I recognized as Mr. O'Neal, he told me to take the message to Mr. Burk.

Q How long before that had you known O'Neal?

A I met him in a business way on a Christmas Eve night. I repaired a domestic radio, home type broadcast receiver, and I met him then, and it was not until later that I again met him.

Q Did Mr. Morrison pay you any money for this service?

A Supposed to, yes sir.

Q Did he actually pay you something aside from being supposed to? A Yes sir.

Q How much did he pay you?

A The total payments from February until April, I think, run somewhere between \$100 to \$175.

Q What was the agreement as to pay?

A I was supposed to receive a salary of \$150 a month.

Q With whom did you make that agreement?



A There was no agreement made. I was just told that I would receive a salary of \$150.

Q Who told you that? A Mr. O'Neal.

Q You are sure that O'Neal told you before you did any work for him, or afterwards?

Q If I remember correctly, I transmitted a message and disposed of it on this Carnival day and there was no mention of salary made at that time. It was several days later a request was made, if I would transmit a few messages for a consideration.

Q Did you have the message for O'Neal before you made this agreement or was the agreement made after you took the message?

A The understanding for pay was after I had intercepted a message.

Q Then how did you come in contact with Mr. O'Neal in the first place?

A I repaired a broadcast receiving set and took it to his home. Whether Mr. Joe O'Neal lives at that home I cannot say.

Q Did you take it where he told you to take it?

A Yes. Mr. O'Neal was not there. I went to this home and brought the radio receiving set on Christmas Eve, and installed it and made it operate in the correct manner, and in the course of conversation prove to

the customer's satisfaction that it worked, and in the course of that conversation the radio was discussed.

OBJECTION: MR. SLADE: I object.

THE WITNESS: My ability, what my experience was.

BY THE COURT:

Q Just a moment. Who did you discuss that with?

A Four or five men in the room at the time and questions coming from each one of the individuals.

THE COURT:

I sustain the objection unless it is shown it was among these defendants.

MR. SLADE:

I think the defendant is entitled to have identification first before it goes to the jury.

THE COURT:

See if he was talking to any of the defendants at the time.

MR. SLADE: Exception.

MR. WOODCOCK: (To Mr. O'Neal) Take your glasses off.

MR. SLADE:

I do not think that is proper, Your Honor.

MR. WOODCOCK:

The man had his glasses off a minute ago.

THE COURT:

Yes, the man had his glasses off when identified in

the presence of Counsel. It is resorting to subterfuges. I will give you an exception.

MR. SLADE: Exception.

MRE WOODCOCK:

Will Your Honor ask him to take his glasses off.

THE COURT:

I will permit the witness to go down and look at him.

MR. WOODCOCK:

I am speaking about the glasses.

MR. GEX:

Nothing can be more leading. You might as well point him out.

MR. WOODCOCK:

The defendant was identified in this Court without his glasses.

MR. GEX:

I don't think so. The witness has not been able to identify him.

THE COURT:

You can point him out and call him by name.

MR. WOODCOCK:

I want to get settled that when the man was pointed out to me he did not wear glasses and when pointed out to the witness he put his glasses on.

MR. GEX:

A man can put his glasses on and off without any definite purpose. I put mine on and off 40 times an hour.

BY MR. WOODCOCK:

Q I want to ask you if you ever had any dealings with this gentleman here whom I am about to touch on the right shoulder?

A No sir. I looked at that man before when I walked around the Court room.

MR. WOODCOCK:

Now, will Your Honor permit the gentleman to remove his glasses?

THE COURT:

The defendant can remove his glasses. (Defendant removes glasses)

BY MR. WOODCOCK:

Q Now, will you come down here and look at this gentleman again?

A (Witness does as requested) That is Mr. O'Neal.

Q Any doubt about it in your mind?

A No. That is Mr. Joe O'Neal.

Q Is he the man you have been talking about all this time?

A Yes sir.

Q The man you met on Carnival day and whose radio you fixed?

A No sir, that is not the man whose radio I fixed.

Q Whose radio did you fix?

A The man whose radio I fixed is not in the Court room.

OBJECTION: MR. SLADE:

We now move that all the evidence be stricken out.

BY MR. WOODCOCK:

Q Who was it you made arrangements with to fix the radio?

A Our place of business is open to the public and anyone can bring a radio in for service, and this particular radio I am speaking of was brought into my office for service to be delivered to an uptown neighborhood residence, which I obligingly did on Christmas eve. Whether Mr. Joe O'Neal or Mr. Morrison were present I do not know, but while I was there we did discuss the radio generally, both the receiving end and transmitting end, but I did not see Mr. O'Neal there at that time, but later on Mr. O'Neal did come and visit my place and spoke to me with further reference to radio, and it was about two months later, about the middle of February before transmitting -

THE COURT:

I will excuse that about repairing the radio, and let him tell the transactions had with the parties.

MR. WOODCOCK:

I have no objection to it being excluded.

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THE COURT:

The evidence as to repairing the radio is excluded,  
gentlemen of the jury.

BY MR. WOODCOCK:

Q Will you state who it was said you would get \$150 a  
month? A Mr. O'Neal.

Q This gentleman here? (Indicating) A Yes sir.

Q Mr. Joseph O'Neal? A Yes sir.

Q When did he say that?

A Either on Carnival day or two days after Carnival.

Q I understood you to say - we are getting a little  
mixed up - that it was Mr. O'Neal over the telephone  
told you to take the message to Morrison?

A No, he did not say Morrison, he said Burk.

Q And that was this gentleman here? (Indicating)

A Yes sir.

Q Had you before that time taken any message to Mr.  
O'Neal? A No sir.

Q Was this the first message that you received?

A Yes sir.

Q And whom did you tell about it?

A I called Mr. O'Neal and told him I had received a  
message, and he said: "Don't give it to me, take it  
to Burk."

Q Did he give you Burk's address?

A Up on St. Charles Avenue.

Q You remember the number?

A No, but pretty close to the Protection Levee.

Q Fix the time of that again as nearly as you can?

A I know definitely it was Carnival day.

Q Did you take other messages up to Mr. Burk or Morrison?

A That was the only message I remember delivering to him personally at that address, and there were not any other messages for several days afterwards.

Q Now, you say you do not remember delivering any other messages personally. Did you deliver any other messages in any other way than personally?

A Over the telephone, yes.

Q Whom would you call? A Mr. Burk.

Q Do you remember the telephone number?

A No, I don't, but I know it was uptown, uptown telephone number, and then the telephone number was changed once or twice, and I contacted Mr. Burk over those other telephone numbers.

Q Will you state whether Mr. Burk ever instructed you to send any messages? A Yes.

Q How would those instructions be given?

A Over the telephone.

Q Were they instructions in plain English or in code?



A Code words.

Q Were the messages you received in plain English or in code? A Code.

Q Then you received messages in code and you transmitted them to Mr. Burk over the telephone, and you at the same time transmitted messages which he had given you over the telephone? A Yes.

Q How long a time did that continue?

A That continued from Carnival day to the day of apprehension.

Q Which you said was in April?

A In April, yes sir.

Q What kind of an apparatus did you have?

A For what purpose?

Q For transmitting and sending?

A The regular amateur radio transmitter.

Q Were you licensed to send messages for pay to Belize?

OBJECTION: MR. SLADE:

Objected to as incompetent, irrelevant and immaterial and not binding on us.

THE COURT: Overruled.

MR. SLADE: Exception.

A No sir.

Q You had what kind of license?

A Amateur license.

Q I don't know much about radios, but were you specified a wave length that you could use?

A Yes, you have several wave lengths.

MR. GRACE:

I think that is calling for a conclusion of law. I object to his testifying what the law is.

MR. WOODCOCK:

He knows what he was told to use in his license.

THE COURT:

I think all he can testify to is what he was authorized to use.

BY MR. WOODCOCK:

Q During this period will you state whether you received any new apparatus, or whether your machine was augmented or repaired, or anything of that sort?

A Yes. I made some changes.

Q Who furnished those new parts?

A My self personally, with one exception.

Q What was that one exception?

A One Sunday I received a telephone call that some radio equipment may be sent to my home, and when I came home that evening there was some equipment in the garage.

Q Did you ever use it? A No sir.

Q Do you know who sent it? A Mr. Burk.

Q How do you know it?

A He telephoned me and said he was sending it.

Q Do you know why he sent you that new equipment, did he tell you why he sent it?

A Just through the course of conversation I expressed a desire to do some work on my transmitter -

Q I show you a little piece of paper pinned on here and ask you to look at that, and ask you if you have ever seen that before? (Counsel hands witness paper and witness examines same)

A Yes sir.

Q Where did you get that piece of paper which I will ask to be identified as Government Exhibit-1?

A I made this myself.

Q What is that?

OBJECTION: MR. SLADE:

I object. The paper itself is the best evidence of what it is. It is not in evidence. We are certainly not bound by it.

MR. WOODCOCK:

I am going to offer it as soon as I get it identified.

THE COURT: Overruled.

MR. SLADE: Exception.

A This is an arrangement whereby I would know if certain call letters were read, if it was possible to

identify it.

BY THE COURT:

Q Who furnished you the paper?

A Mr. Morrison gave me this information over the telephone.

BY MR. WOODCOCK:

Q Are those the call letters of various States?

A Yes sir.

Q And that information was given to you by Mr. Morrison?

A Mr. Burk.

Q Is that what you used in your work?

A Yes sir.

BY THE COURT:

Q When you refer to Mr. Burk, you refer to the defendant  
you pointed out? A Yes sir,

BY MR. WOODCOCK:

Q Mr. Morrison? A Yes sir.

Q What did Mr. Morrison tell you that meant there BEL?

A That is an arrangement of my own. That is supposed to  
be Belize.

OBJECTION: MR. SLADE:

I ask that be stricken as not competent, and not  
binding on us?

THE COURT:

Yes. I sustain the objection to that.

BY MR. WOODCOCK:

Q I will put this question. What call letter did Mr. Morrison tell you would indicate that a message was coming from Belize to you?

A I was to listen and if I heard the call GD, the same as you would address me as Charles, I would know you were speaking to me.

Q What call did Mr. Morrison tell you to use when you were sending something to Belize?

A HX, the same as if I would speak to you and call you John.

Q If you were tapping HX on your machine, that would mean you were calling Belize, or was it the reverse?

A You have it correct. If I was calling Belize, I would tap HX, and he would answer by calling me GD.

Q In other words, you were GD?

A That is correct.

Q What call did Mr. Morrison tell you to use when you were calling the ship Mavis Barbara?

OBJECTION: MR. SLADE:

I object.

THE COURT:

Ask him if he had any arrangements to call the ship.

BY MR. WOODCOCK:

Q Did you have any arrangement by which you either

received or transmitted messages from the ship Mavis Barbara?

A I would not recognize any ship by name. The call letters would mean more to me than anything else. Now, as to the call letters themselves, I cannot vouch for that.

Q You stated you typed this out from information Morrison gave you?

A Yes sir.

Q What does ROS mean?

A I know exactly that is Rosita.

Q What did Mr. Morrison tell you that was?

A He never at any time told me what that meant.

Q Did he give you a call letter that would be Rosita?

A Yes, as listed here.

Q You mean while you had a call letter for Rosita, you did not know what Rosita was? A No sir.

Q Though you wrote down here ROS for Rosita?

A Yes sir.

Q But you did not know whether that was land or water, or ship or yacht, or anything else?

A I did not know.

Q Did Mr. Morrison tell you if you got the call GI, what to do with it?

A In that case, if I was to hear it I was to listen in.

Q And transmit that message to Morrison?

MR. GEX:

I do not think he ought to lead the witness.

MR. WOODCOCK:

I think so too, but we have got to get on.

Q What were you to do. Will you state what you were to do if the air brought you the letters GI to your receiver?

THE COURT: Just tell all you were to do.

A GI in this particular case does not concern me, and if I had opportunity I would have listened to the message and copied it, and possibly transmit it to Mr. Burk, but I happen to remember I did it on one occasion, but it was not GI, it was some other station.

BY MR. WOODCOCK:

Q Did you say a moment ago Mr. Burk furnished you with all those call letters?

A Yes sir.

Q Did he tell you which ones you were to listen to and transmit to him?

A Yes sir.

Q Which ones? A HX.

Q That is opposite here? (Indicating) A New Orleans.

Q That is your own?

A In other words, it was none of my business what went

on between the others. HX and HY I was interested in.  
That was my business.

Q Did he tell you to be concerned at all with HY?

A Yes sir.

Q What did he tell you HY indicated?

A It meant somebody else was addressing me, trying to  
contact me.

Q That is anything opposite NO, you were to listen to?

A Yes sir.

Q You have HY in the column CORA?

A Yes sir.

Q Do you know what Cora means?

A Just another station.

Q And you do not know what it is? A No sir.

Q Continuing you have HZ opposite IAS. Do you know what  
IAS is? A Lassie.

Q You know what it was?

A Just another station.

Q The next one, JA, do you know what that was?

A Montreal.

Q That is Montreal? A Yes sir.

Q The next one JB, do you know what that means?

A No sir. That indicates a different station.

Q This JD, what did that indicate? A Rosita.

Q Did Morrison use the word Rosita to you? You have it



ROS. How did you know that was Rosita?

A It was put down abbreviated by myself.

Q What did Morrison say, ROS or Rosita?

A He said Rosita.

Q And you abbreviated it? A Yes sir.

Q The next, JV, that is under VAN. What is that the abbreviation of? A Vancouver.

OFFER: MR. WOODCOCK:

I offer this in evidence.

OBJECTION: MR. SLADE:

I object to it as incompetent and not binding upon us.

BY THE COURT:

Q You made that up yourself? A Yes sir.

Q Upon instructions you received from Mr. Morrison or Mr. Burk? A Yes sir.

Q He directed you how to make it up?

A No sir, he didn't direct me how to make it up. He told me if this station was calling me I would answer it so and so, and I made this myself so it would be easier for me to make out.

Q You made that out as a memorandum of the information he gave you? A Yes sir.

THE COURT:

Overrule the objection.

MR. SLADE: Exception.

MR. HOLLINS:

I would like it understood all objections made apply to all defendants, and exceptions.

THE COURT:

Yes, applies to all defendants.

MR. WOODCOCK: (Exhibiting document to jury)

OBJECTION: MR. GEX:

We object to Counsel telling the jury what the witness stated, by taking the paper and talking to the jury.

I think that would come in the argument, Mr. Woodcock.

MR. WOODCOCK:

I have always been able to show -

THE COURT:

He is objecting to your interpretation of it.

MR. GEX:

I ask Your Honor to exclude any conversation he had with the jury.

THE COURT:

Yes. I will ask the jury to exclude what Col.

Woodcock has said. When he comes to argue the case he can tell the jury then.

BY MR. WOODCOCK:

Q Mr. Andres, would you be able to recognize any of the messages that you sent in code for Mr. Burk, or

received for him?

A I cannot vouch for the arrangement of the words themselves, but I would recognize the words.

Q Now, I will ask you to ~~either~~ look at that message there and state whether you either received or sent that for Mr. Morrison, if you know?

MR. SLADE:

May I ask if that message is made in his handwriting?

MR. WOODCOCK:

It is not. It happens to be typewritten.

OBJECTION: MR. SLADE: I object.

MR. WOODCOCK:

If I make myself clear, the testimony is that all of this is in code. I asked the witness before I showed him the paper if he could recognize any of these code messages, which he had sent and received. He said he could recognize the words, but he could not be certain as to the arrangement. I simply picked out a code message and asked him if he sent or received that message.

THE COURT:

Overrule the objection.

MR. SLADE: Exception.

BY THE COURT:

Q You know you sent those words?

A Yes, but the arrangement I cannot vouch for.

BY MR. WOODCOCK:

Q Will you tell the jury whether the first word in a code message has any greater or less significance than any other word in it?

OBJECTION: MR. DOWLING: I object.

BY THE COURT:

Q Do you know about that? A No sir.

THE COURT: Sustain the objection.

BY MR. WOODCOCK:

Q Then you were for all intents and purposes transmitting things and messages that you did not know the meaning of?

A That is correct.

Q It was just as if you had been dealing in Chinese characters?

A Yes. I could say something there that will explain it, if the Court will permit. Amateur Associations -

OBJECTION: MR. SLADE: I object.

MR. WOODCOCK: I am not asking it.

THE COURT: I sustain the objection.

BY MR. WOODCOCK:

Q Will you state if you recall about how many messages you would send or receive for Mr. Burk during the day during this time?

A On one occasion there were three, but there were many days there was just acknowledgements of good morning and nothing for you, and then occasionally one in the morning and one in the evening.

Q Did you have any particular time that you were instructed by Mr. Burk to be on the alert, to be ready to send or to receive?

A Yes. During days of operations between 12:30 and 1:00 o'clock in the morning. That interfered considerably with my work and I changed that to in the neighborhood of 6:00 o'clock in the evening or 7:00 o'clock in the morning.

Q And what arrangements did you have when you ended your work of this kind; what schedule were you working on in April when the thing was interrupted?

A That was a morning schedule, seven o'clock in the morning.

Q Will you state briefly, without any details, how you come to stop?

A I was operating my transmitter on the morning schedule and found out there was nothing for me, and closed the transmitter, and I was coming out of my operating room when the government officials walked in.

Q Did they do anything more serious than walk in?

OBJECTION: MR. SLADE:

I object to that as incompetent, irrelevant, immaterial and inadmissible.

THE COURT: Sustain the objection.

CROSS EXAMINATION:

BY MR. GEX:

Q What did you say your name was, please Sir?

A Charles Andres.

Q You are charged with entering into a conspiracy with the O'Neals and Goldberg and other people?

A Yes sir.

Q I will ask you did you ever know and meet and go into conspiracy with anybody from Mississippi?

OBJECTION: MR. WOODCOCK:

Objection. It is not cross examination. Nothing of that sort was asked him.

THE COURT:

He was not asked anything about that.

MR. GEX:

He is establishing conspiracy. He was charged with them in the conspiracy. I have the right to show, by putting him on the stand as my witness, that they were not in conspiracy with him. He is charged with being in this conspiracy.

THE COURT:

You may ask him if he knew any of these defendants,  
or any conspiracy with them.

BY MR. GEX:

Q Do you know any of these negroes up here? (Indicating)  
A No sir.

Q Did you ever see them before?  
A Not until today.

Q Do you know any of these white men up there? (Indicating)  
A No sir.

Q Did you ever see any of them before? A No sir.

Q Do you know Alfred Jackson? A No sir.

Q Do you know Buster Malini? A No sir.

Q Do you know Louis Cameron? A No sir.

Q Henry Dandridge? A No sir.

Q Sam Dandrige? A No sir.

Q Jim Dantzler? A No sir.

Q Booker Gaines? A No sir.

Q N. T. Haas? A No sir.

Q Blaine Lee? A No sir.

Q Tom Malini? A No sir.

Q Charles Martin? A No sir.

Q Leander Necaise? A No sir.

Q And Ilos Parker? A No sir.

Q You do not know any of these boys? A No sir.

Q You never did meet with them in New Orleans?

A No sir.

Q You do not know of any agreement they entered into to bring liquor into the Eastern District of Louisiana?

A No sir.

CROSS EXAMINATION:

BY MR. SLADE:

Q The only persons I understand you ever talked to, so you stated in answer to the District Attorney's question -

A Those two men I know in this Court room.

Q And you are not associated with any people mentioned in this Indictment?

A No sir.

Q Were you indicted here?

MR. WOODCOCK:

The record will show for itself. If he was, it would not be a competent question. He is not indicted in the case on trial.

MR. SLADE:

I am asking him in this particular case.

MR. WOODCOCK:

The answer to that is no.

BY MR. SLADE:

Q You know nothing about the transportation by boats, automobiles, truck, anything supposed to be done by any matter involved in this case?



A No sir.

Q You yourself never entered into any agreement of that character?

A No sir.

THE COURT:

If he is not indicted, we are not trying the witness.

MR. SLADE:

He is charged with being a party to this conspiracy, but not indicted herein.

THE COURT:

So far as the law is concerned, he could be a party to it, but never had any conversation with but one of them and the others all be conspirators with him.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Will you state whether or not you transmitted, or shipped at the request of Mr. O'Neal or Mr. Burk any radio apparatus to any other point?

A Some batteries.

Q At whose request did you do that?

A Mr. Burk.

Q Where did he tell you to ship them?

A Some place in Texas. I don't remember exactly now.

Q Is the battery a part of the radio receiving or transmitting?

A Receiving set.

Q Did he say what they were for? A No sir.

OBJECTION: MR. SLADE:

I ask that the testimony be stricken out as irrelevant and immaterial.

THE COURT: Overruled.

MR. SLADE: Exception.

MR. WALLACE:

Now comes the defendants Alfred Jackson, Buster Malini, Louis Cameron, Henry Dandridge, Jim Dantzler, Booker Gaines, N. T. Haas, Blaine Lee, Tom Malini, Charles Martin, Leander Necaise and Ilos Parker, and move the Court to exclude the testimony of said witnesses insofar as they are concerned.

THE COURT:

Gentlemen of the jury, I will say in that connection any conversations that the witness had with Mr. Morrison and Mr. O'Neal are only admissible against the persons who participated in the conversations, unless it later develops, and the government should make out the conspiracy, and you are satisfied the conversations were had in furtherance of the conspiracy. All these conversations are evidence as against the persons who participated in the conversations, unless it is developed later that such conversations were part of the conspiracy.

Gentlemen of the jury, this trial, as you probably

are aware from the number of witnesses and the outline of the case that has been made by Counsel in your presence, will probably last throughout several days. When the Court is in adjournment, each juror may go to their respective places of business or your homes. You must not say anything about this case outside of the Court room, must not permit anyone to call you over the telephone or discuss the case, or discuss it among yourselves. If anyone should do it, call their attention to the fact that you are on the jury and it is improper to talk about the case, and you should not make up your mind about the case, but you must remain openminded until the testimony is all in both for the government and for the defendants, and until you hear the argument of Counsel and the Charge of the Court. Be careful, gentlemen of the jury. I do not mean in the slightest to indicate you would do anything about it, but a good many people are careless about making remarks in the presence of the jury, not aware of the fact that they are talking to a juror. If anything of that kind happens, call attention to the fact you are on the jury and hear nothing about this case except in the Court room.

The Court will recess until 9:00 o'clock tomorrow morning. All parties are requested to be here promptly

tomorrow morning at nine o'clock.

Adjourned until 9:00 A. M. May 2, 1933.

- - - - -

MAY 2, 1933; 9:00 A. M.

MR. GEX: (PHILIP MALINI APPEARS IN COURT)

Philip Malini did not have money to get here, and we had to wire him the money to come here.

MR. SLADE:

There has been no testimony in the record so far that would effect him at all.

MR. WOODCOCK:

I am inclined to think the jury would have to be sworn again.

MR. GEX:

We waive all of that. Let the record show we waive it.

MR. WOODCOCK:

There are some things the defendant cannot waive. That, I think, is one of them.

THE COURT:

As a matter of precaution, you might let the jury be sworn again to try this defendant.

MR. WOODCOCK:

I would like the record to show very clearly what Counsel has stated, and that the jury was sworn over. I would like the Court to question the defendant

personally.

(PHILIP MALINI CALLED BEFORE THE COURT)

BY THE COURT:

Q You were not here yesterday? A No sir.

Q Why weren't you here?

A I left to come here Friday night by bus.

Q Have you Counsel to represent you? A Yes sir.

BY MR. GEX:

Q You are now willing to appear and waive any rights have had at the beginning of the trial, and let the trial proceed against you from now on?

A Yes, yes sir.

THE COURT:

I think we will do that.

MR. NORMAN:

The government at this time asks the bond forfeiture entered yesterday against Philip Malini, and his surety, be set aside.

MR. GEX:

The bondsman was not called anyhow yesterday.

MR. NORMAN:

Just a matter of precaution, protect him.

THE COURT:

Let the record show he was on trial along with the other defendants.

MR. GEX:

Will your Honor let us embrace him in the pleas we filed yesterday? We did not make them for him because he was not here.

THE COURT: Oh yes.

MR. GEX:

We ask that his name may be placed in each plea filed yesterday by the other defendants through Counsel.

THE COURT:

It is so ordered that the name be placed with the other defendants, and the same ruling of the Court to apply.

MR. WOODCOCK:

With Your Honor's permission, some of the witnesses can be excused until tomorrow. There are a great number of witnesses, and I am sure we cannot reach them all today.

THE COURT:

Be sure to keep enough to keep us going for today.

MR. WOODCOCK:

Yes. I will do that. I would like the other witnesses be asked to remain in that little room there.

THE COURT:

All right, Mr. Marshal.

(Witnesses called and put under the rule)

MR. WOODCOCK:

It might be well for Philip Malini be arraigned.

THE COURT:

State to him briefly what he is charged with.

MR. WOODCOCK:

Counsel understands what he is charged with.

MR. GEX: He pleads not guilty.

MR. WOODCOCK:

Mr. Malini, you are charged with conspiracy to violate the National Prohibition Act, the Tariff Act, Radio Act, being one of the conspirators to import liquor into this country unlawfully and to distribute it.

Do you understand what you are charged with?

A Yes, and I plead not guilty.

Q I understand that is what you wish to plead?

A Yes sir.

BY THE COURT:

Q You are satisfied with the jury in the box to try your case and to proceed against you from now on?

A Yes sir.

- - - - -

ROY E. KELLY: Witness, being duly sworn and examined on behalf of the government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Roy E. Kelly.

Q Mr. Kelly, will you tell the Court and jury what your position is?

A Radio Technician for the Bureau of Prohibition.

Q How long have you been in that position?

A Since December 15, 1930.

Q And what experience in radio had you had prior to that time?

A I entered the Naval Radio Service on July 1, 1927, and left that service on December 4, 1930.

Q And what were your duties in the Navy in connection with radio?

A Sending and receiving radio messages, repairing radios, radio equipment,, operating aboard air craft, and surface vessels.

Q When did you go in the Navy?

A I entered the Navy in December 16, 1926.

Q Had you had any experience in radio prior to that time?

A No sir.

Q Did you have any course of instructions in the Navy in radio?

A Yes sir.

Q Will you explain the nature of those instructions?

A The Navy has trade schools in which they teach the various trades for the Navy service, such as radio operation, gunners, navigators.



MR. GEX:

I will ask that he be limited to the radio in the interest of saving time. It is not responsive to the question.

MR. WOODCOCK:

If you will admit his qualifications as an expert in radio, I will not ask these questions.

THE COURT:

All that is to show whether the witness is qualified?

MR. GEX:

Anything that shows his qualifications is not objectionable, but he is reciting what is taught in the navy.

THE COURT:

State what he received.

BY MR. WOODCOCK:

Q The Court wants you to tell what training you received in radio?

A The duties of a radio operator which consists of sending and receiving radio messages, repairing equipment, building equipment, installing and upkeep of the types of radios, transmitting and receiving.

Q Did that instruction include the art of locating stations from which signals were being received?

A Yes sir.

Q And you were in radio work in the navy over what period

of time?

A From July 1, 1927 until December 4, 1930.

Q From 1927 to 1930. And before that what was your occupation, before going in the navy?

A Telegraph operator.

Q How long were you telegraph operator?

A Approximately two and a half years.

Q Now, since you have been in the Bureau of Prohibition, what have been your duties in connection with radio?

A My duties were to intercept, and when possible to decode radio code messages used to further smuggling interest.

Q Have you done that exclusively since 1930?

A Yes sir.

MR. GRACE: That is a conclusion.

BY THE COURT:

Q That is your official work? A Yes sir.

BY MR. WOODCOCK:

Q Where were you in March of 1931, where were you operating?

A In March 1931 I was in New Orleans. I was in this city.

Q And during that time did you have charge of any apparatus for the detecting of radio signals?

A Yes sir.

Q Now during that time, did you notice or receive any

signals with the call letters GD and HX?

OBJECTION: MR. GRACE:

I think that is a leading question. I think he should state what messages he received.

MR. WOODCOCK:

Your Honor, if he stated that, it would take the rest of the month.

THE COURT: I overrule the objection.

MR. GRACE: I reserve a bill.

A I received both call letters GD and HX.

Q Will you state whether there was anything in the call letters GD or HX which meant anything particular to you because of its distinctive character?

OBJECTION: MR. SLADE: I object; incompetent.

THE COURT: Sustain the objection.

BY MR. WOODCOCK:

Q Will you state from your experience of some years in receiving and sending messages, whether call letters have a distinctive character?

OBJECTION: MR. SLADE:

I object to that as not competent.

THE COURT: Overruled.

MR. SLADE: Exception.

A Yes, there is a very distinctive difference -

OBJECTION: MR. SLADE:

I respectfully ask that he answer yes or no instead of going into an explanation.

MR. WOODCOCK:

It is an unusual rule that the witness cannot explain his answer.

THE COURT:

I have ruled on it, gentlemen. You may have an exception.

BY MR. WOODCOCK:

Q Is there anything distinctive in calls due to their closeness or their remoteness from the receiver?

A Yes. There is a difference in receiving a local station and in receiving a distant station. I think most anybody can understand that, because -

OBJECTION: MR. SLADE:

I object to any because.

THE COURT:

State your reasons. You are testifying as an expert; just state the facts.

BY MR. WOODCOCK:

Q What is the reason for that difference in intensity?

A Because of the nearness of the station located within a few miles of your receiver, you get a very strong signal and a very steady signal, and stations located

at distant points receive weaker intensities, and signals flush in and out, that is, they vary.

Q Now, will you state whether or not there was anything distinctive in the signals, either the signal GD or HX that you received?

OBJECTION: MR. SLADE: We object; no foundation laid.

THE COURT: Overruled.

MR. SLADE: Exception.

A When the call letters HX were used, I could tell the station was located within, I should say 15 miles from New Orleans when I first heard it. When the call letters GD were used, it sounded as if it was coming from some distance away.

Q Well now, did you record and note down the messages which followed the call letters GD and HX?

A Yes. I recorded those letters from, rather those messages from, I believe it was March 17th until April 11, 1931.

Q How did you record them?

OBJECTION: MR. SLADE:

I object to what he believes as not binding upon us.

BY THE COURT:

Q When you say you recorded it, you mean you made a memorandum of it?

A I recorded it word for word.

THE COURT: Overrule the objection.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Did you do it in longhand or on the typewriter?

A In longhand.

Q What did you do with the longhand?

A Made typewritten copies and submitted them to Mr. Herrick.

Q Did you take any steps out of your experience as a radio expert to locate all bearings or otherwise, from either of these call letter stations, the stations which were using the call letters GD or HX?

A Yes sir.

Q Well, did you arrive at that location by radio bearings, or otherwise?

A Yes sir. I was told -

OBJECTION: MR. SLADE:

I object to what he was told.

THE COURT: Do not say what you were told.

BY MR. WOODCOCK:

Q I think your papers say you had other information?

OBJECTION: MR. SLADE:

That is leading.

THE COURT:

Do not lead him. Tell the jury how you located it.

A I did have other information as to where this station was located, and I went to this neighborhood with a radio compass set and took radio compass bearings, and all these radio compass bearings pointed to this house at 2748 Gladiolus St.

Q Did you observe the house at 2748 Gladiolus St.?

A Yes sir.

Q Did you notice anything about the house which was distinctive?

A They had a large radio transmitting antenna erected on two steel iron masts and the antenna was connected to the attic floor with two zeplin type transmitter feeders or wires.

Q You observed that on this house which your radio compass bearings pointed to, and which your other information verified?

A Yes sir.

Q Now did you afterwards at any time enter those premises?

A Yes sir.

Q And when was that?

A On April 11, 1931.

Q And on what authority did you enter?

A By authority of a search warrant.

Q And whom did you find there?

A I found Mr. Charles Andres, Jr. and his wife and a little son about six years old.

Q You can omit the son. He had nothing to do with it.

A All right.

Q Did you find any apparatus there?

MR. SLADE:

Let him say what he found. I think that is leading.

MR. WOODCOCK:

I do not want him to describe the bed room furniture.

THE COURT: Overruled.

MR. SLADE: Exception.

A I found a radio transmitting set, also radio receiving set, and numerous separate parts, wires, tubes, and the receiving set was turned on, and the tubes in the transmitter were hot, but it was not turned on when I came in the house. I picked up the head phones and put them on, and I heard those same calls you just asked me about without turning anything.

Q What did that indicate to you as a radio expert, without turning the dial you could pick up the same signals you had been hearing elsewhere?

A It indicated to me that that receiver was being used to listen to those same signals that I had been listening to. Then I started up the transmitter and used the call letters HX, repeated the call letters several times and waited for an answer, and I received an answer by the call letters GD, the same



call letters that I had been intercepting.

Q Now I understand you tapped HX on your key?

A Yes sir.

Q That is the same setting as you found there?

A Yes sir.

Q And there came back over the air the call letters GD?

A Yes sir.

Q Will you state whether or not the call letters that came back over the air, came in the same way and the same intensity or not, that you had previously heard it?

A Yes sir.

BY THE COURT:

Q That is your opinion as an expert?

A That is my firm conviction.

BY MR. WOODCOCK:

Q After years of experience?

MR. GEX:

Don't interject something. The witness has testified.

BY MR. WOODCOCK:

Q Now I show you a series of sheets of paper and ask you if you wrote, or if you have ever seen them before? (Counsel hands witness paper and witness examines same)

A I typed these.

Q You typed those yourself?

A Yes sir.

Q And what is that?

OBJECTION: MR. GEX:

I object. The paper speaks for itself, and is the best evidence.

THE COURT: Overruled.

MR. GEX: Exception.

A This is a copy of my radio interceptions which I typed out for delivery to Mr. Herrick.

Q What date does it begin?

A March 17, 1931.

Q And how long does it extend; look at it carefully?

OBJECTION: MR. GEX:

Your Honor, we object to all that line of testimony given in reference to this paper; we enter the same objection.

THE COURT:

He has not offered them yet. He is identifying them.

A They end on April 10, 1931.

Q What hour of the day was it that you went out to 2748 Gladiolus St.?

A We arrived in that vicinity at 6:45 in the morning.

Q Well, approximately what was the hour of entering the premises?

A About two minutes after seven o'clock in the morning.

Q Now, can you state from your experience and your examination of that apparatus there what wave length was being used to send and receive?

A Yes sir. It was operated on approximately 39-1/2 meters. The Assistant Radio Inspector who went with us checked the wave length.

OBJECTION: MR. GEX:

I object to what the Inspector did.

THE COURT: Exclude what he did.

BY MR. WOODCOCK:

Q Your opinion is that it was what?

A 39-1/2 meters.

Q Now that document which you hold in your hand is what you typed out from some other document, is it?

A Yes sir.

Q Have you those other notes, those first that you wrote out in longhand?

A Yes, I have the originals.

Q Where are they?

A I have them here with me.

Q Will you produce those also?

A I have the originals here and one copy of my typewritten report. (Hands documents to Counsel)

MR. GEX:

That is not the question that was asked.

THE COURT: Ask him if he has the originals.

BY MR. WOODCOCK:

Q Is the yellow sheet the original?

A Yes sir.

Q And the white sheet the copy?

A Yes sir.

Q Is the white sheet the same as this white sheet over here? (Indicating)

A Yes sir, a carbon copy of this white sheet here.

Q Now this began on what date?

A On March 17th.

Q I thought I saw a date March 16th?

A That concerns another matter.

Q Well then, detach that?

A (Witness does as requested)

Q Now those yellow sheets, to which for convenience a white sheet is attached; I do not care anything about the white sheet; will you state again what they are?

A They are the original messages intercepted by myself and recorded on paper with a pencil.

Q Just as they came in?

A Yes sir.

BY THE COURT:

Q You mean you recorded it on that sheet of paper as you listened in on the messages being transmitted?

A Yes sir.

OFFER: MR. WOODCOCK: I offer this in evidence.

OBJECTION: MR. SLADE:

Objected to; no foundation; irrelevant, incompetent  
and immaterial; not binding upon us; purely hearsay.

THE COURT: Overruled.

MR. SLADE: Exception.

THE COURT:

I understand you are only offering the original yellow  
sheet.

MR. WOODCOCK:

That is correct. For convenience of Counsel and all  
concerned I would be very glad to let you have a type-  
written copy of this, because this is a little bit  
complicated, and I want to expedite it. I think proba-  
bly we could agree the typewritten copy is a copy of  
the longhand.

MR. GEX:

I understand when exceptions are taken they are allowed?

THE COURT: Oh, yes.

OBJECTION: MR. SLADE:

We put in this record the added objection to that paper  
that his inquiries are incompetent to bind the defend-  
ants.

BY MR. WOODCOCK:

Q Do those yellow sheets record the words and also the -

OBJECTION: MR. GEX:

I object. The paper is the best evidence.

BY MR. WOODCOCK:

Q All right. Read them? Read what you have there to the jury?

THE COURT: From the yellow paper.

MR. GEX:

I haven't seen that or had opportunity to examine it.

I think we are entitled to see what it is.

THE COURT:

I will permit you to look at the paper.

MR. WOODCOCK:

Counsel will recall a moment ago I tendered you a copy.

MR. GEX: I haven't received it yet.

MR. WOODCOCK:

I heard no response to my tender. I do not want to delay the trial.

THE COURT:

If you gentlemen desire this paper, you may look at it. I am talking about the paper the witness is going to testify from. I think you are entitled to inspect it, to see if any further objection will be interposed.

MR. WOODCOCK:

I want you for your own convenience, to compare these two and then you can have the white copy.

MR. SLADE:

If Your Honor please, the yellow sheets are not copies, the yellow sheets. Do I understand from the government they are all alike?

MR. WOODCOCK:

These are the same alphabet letters that appear here.

Q One is a copy of the other, isn't it?

A Yes sir.

MR. WOODCOCK:

There is no translation into plain English.

THE COURT:

I think you had better let him testify from the original memorandum.

OBJECTION: MR. DOWLING:

If the witness attempts to decode the messages, I object.

THE WITNESS:

I am not going to attempt to decode any message.

MR. WOODCOCK: That will be done by another witness.

A The difference you find here is that in radio we have standard abbreviations for shortening the radio traffic or radio correspondence. For instance GM means "good morning;" GE "Good Evening."

BY MR. GEX:

Q But they are not identical, are they -

THE COURT:

It seems to me we are taking up useless time. As I understand, the witness says he does not undertake to interpret it. We had better wait until the witness takes the stand to decode the letters.

MR. SLADE:

We had gotten to the point that before this paper was introduced in evidence that we might examine it. Let us see it? I want to see that, if Your Honor please, for one minute. (Documents handed to Counsel)

We have examined it, and I understand the objections made will go into the record, and the Court rules it is competent to introduce the paper?

THE COURT: That is correct.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q I ask the witness to count the number of sheets so the record will show it completely?

A You mean all the yellow sheets I have here?

Q Yes.

OBJECTION: MR. WALLACE:

May I ask the stenographer, please, to note in the objection above that it violates the hearsay rule. Further we object to the introduction of the type-written copy, because the original is the best evidence.



THE COURT:

For the present, gentlemen of the jury, the paper and messages are only admitted against the defendants that may have received or transmitted the messages, unless you find from all the evidence that the conspiracy is made out, and that the sending of the messages was in furtherance of the object named in the conspiracy and part of the conspiracy.

MR. GEX:

Your Honor limits that to the yellow sheets?

THE COURT:

Yes, messages sent or received as a part in effecting the conspiracy, then it becomes binding against all the parties to the conspiracy.

MR. WOODCOCK:

If the Court will permit me, I will insert the numbers of those sheets later. It will save time.

THE COURT:

I think the witness is about through with them. It seems to me like they all might be fastened together with a rubber band or something.

OFFER: MR. WOODCOCK:

If the Court please, I offer in evidence the certain yellow sheets which the witness has testified were his first hand recording of messages during the period

from March 17 to April 10, 1931, intercepted by him  
from the letters GD and HX. He can count those later.

OBJECTION: MR. SLADE:

Our objection is reiterated now to the offer, on the  
respective grounds heretofore urged.

THE COURT: You may have an exception.

MR. WOODCOCK:

May those sheets be marked Government Exhibit-2 Radio  
interceptions.

THE COURT:

Detach from them all typewritten copies made afterwards.  
They are not going in evidence?

MR. WOODCOCK: No sir.

Q I am going to ask you to turn to March 22 to a message  
received at 6:01 P. M. on March 22?

A (Witness does as requested)

Q The message "Baton Widow Refer." Have you that message  
there?

A Yes sir.

Q Will you read that message to the jury just as you have  
it there?

A "6:01 P. M. on March 22, 1931, HZ FM GD Baton -"

Q You can pronounce that; that is Baton?

A "Baton Widow Refer Argus Bales Night -"

Q Go ahead?

A "Webb -"

Q Webb or wedge?

A That is wedge.

Q Wedge?

A "Wedge Flash Slime Smack Slime Smack Fleck Small  
Sloop Slope Slope Envay Witch Wrench Equal." That  
checks 21.

MR. SLADE:

Your Honor will note now that he has there some al-  
leged translation of his own in writing.

THE COURT:

I do not understand that is a translation. I under-  
stand that came over the wire.

MR. SLADE:

I want Your Honor to look at the bottom of it.

MR. WOODCOCK:

I did not know the translation was on there. Where  
is it?

MR. SLADE: Right here. (Indicating)

OFFER: MR. WOODCOCK: Then I offer only the message.

MR. SLADE: I ask to eliminate that.

MR. WOODCOCK:

Suppose we read into the record the particular message?

THE COURT:

For the present you can identify those papers. You ex-  
pect to call another witness to decode them?

MR. WOODCOCK: An expert to decode them.

MR. SLADE:

The paper is now eliminated of writings except these specific characters?

THE COURT: Yes, that is correct.

BY MR. WOODCOCK:

Q Will you put a mark on that -

A I am putting an "X" opposite this message. (Indicating)

Q Turn the page down too, please?

A (Witness does as requested)

Q Now will you turn to your record for April 8th at 6:07 P. M.?

A (Witness does as requested)

Q What is that message there?

A "6:07 P. M. on April 8, 1931, HX GD, HR, No. 1, BT."

Q "JB" isn't it?

A This is "BT", radio abbreviation meaning "Period".

Q All right. Now, what is the message?

A "Two, JB, BT, check 13, Bt, Quids."

Q You mean "CK 13?"

A Yes, "CK 13, "Abgah, Flash, Slate, Fable, Shoot, Bowsky, Model, Faced, Nymph, Elvan, Faint, Afire, BT, HW, AR."

Q Now turn to -

THE COURT:

I understand you are going to offer a witness who will be qualified to decode that and tell the jury what all that means?

MR. WOODCOCK: Yes.

THE COURT:

The paper is in. Why not let the witness take the stand?

MR. WOODCOCK:

If Your Honor will let the witness stay in so he can point out matters to me.

THE COURT:

Yes. I will let you have his assistance in pointing to that particular message that you want to call the expert's attention to in decoding them. I am admitting them, Col. Woodcock, on the assumption you are going to offer further connecting testimony with reference to all these messages and papers.

MR. WOODCOCK:

I thought that the connection had been made direct to the defendant Morrison, certainly in that Andres testified that he sent messages on these two call numbers GD and HX.

THE COURT:

That is right. I think it would be admissible as against Morrison.

MR. SLADE:

Then, Your Honor, may I make this observation, those particular ones that he says he sent is certainly far-fetched, to say that HX and GD were sent by any particu-

lar person. I cannot see any possible foundation. How can we possibly point out, or ascertain or determine the fact that the specific ones which Morrison is alleged to have told him to send out are these particular ones?

THE COURT:

There is sufficient evidence to permit them on the ground Morrison arranged for these symbols to be used.

MR. SLADE:

Yes, but no identification that these were the identical messages.

MR. WOODCOCK:

One step further. The witness Andres testified that all he sent, GD and HX were sent at Morrison's directions, or if they came in they were given to Morrison.

THE COURT:

I think it is admissible as to Morrison.

MR. GEX: Limited to him alone?

MR. WOODCOCK: Until the conspiracy is made out.

OBJECTION: MR. SLADE:

I object to all this evidence upon the grounds previously urged, and I ask that it be stricken out on the respective grounds, hearsay, no foundation laid, whether one or any of the defendants.

THE COURT: Overruled.

MR. SLADE: Exception.

CROSS EXAMINATION:

BY MR. SLADE:

Q Mr. Kelly, this I understood you to say was a short wave radio?

A I don't believe I said it, but that is correct.

Q That is my understanding, but it is correct?

A Yes sir.

Q And in short wave radios, that is what is known as nondirectly. Am I using the technical phrase correct?

A It makes no difference whether long or short wave, it could be directly or nondirectly.

Q But this is nondirectly?

A Yes sir.

Q So a message of this kind could be sent from any place within a radius of 15, 25 or 35 miles, or any distance?

A Yes sir.

Q And pick up or scatter without any restrictions?

A Yes sir.

Q And the distance of 25 miles, there would not be enough difference in intensity to detect, whether 25 miles or 15 miles?

A No sir.

Q The fact that you merely picked up a message would not indicate to you at all whether it came from San Francisco, New Jersey, Missouri, or anywhere else?

A That is right.

Q Now you said something in answer to the Colonel's question about some standard signals, or the letters like GM stands for "good morning", and GE stands for something else. Well, it does ~~not~~ necessarily follow if you want to use the letters GM, in this prohibition case, use the words gin mill, it would have some significance that you would not know of?

A Yes, I would.

Q Suppose I took those same symbols and sent them out for some specific purpose, for some purpose to pick up, understanding between him and myself, those letters stands for "gin mill", you would simply apply to those words what you know to be the standard, recognize those words as a radio technician. Is that right?

A Yes.

BY THE COURT:

Q Combination of letters in the radio language?

A Yes sir.

BY MR. SLADE:

Q They use them with a standard understanding?

A Yes sir.

Q But if they are used with a different understanding, although applying the same words, the only way you can determine what they mean would be by applying the



standard that you understand they should have <sup>been</sup> used for?

A No. It depends upon the sentence. If your GM came in the regular order, I would know it stood for GM -

Q Exactly -

MR. WOODCOCK: Let him answer, please.

A (Witness continuing) - If you were using it for some other designation other than "Good Morning", it would immediately show up in your message. You would not start your message -- put your good morning in the middle of your message, or two or three times in the body of the message.

Q Suppose I had a word which stands for good morning, general manager, general merchandise, you could have it in any part of the sentence and stand for different things?

A Yes.

Q So it does not necessarily follow that it means good morning?

A When the radio operator uses it, it does.

Q I am not asking you when radio operators use it. I am asking if that is -

OBJECTION: MR. WOODCOCK:

I object. He is talking about radios.

BY THE COURT:

Q You determine and ascertain the meaning if given at the beginning of the message?

A Sometimes at the beginning and sometimes at the end of the message.

Q For instance, if the initials GM occurred several times in the message, would that be an indication that it did not mean "Good Morning?"

A Yes sir.

Q Mr. Witness, in the use of the radio, are all broadcasting stations or sending stations in the radio world known by some designated letters, combination of letters?

A If they are local stations they are.

Q Designated by a combination of letters?

A Yes sir.

Q No two local stations bear the same letter numbers?

A No sir.

Q Same combination of letters?

A No sir.

BY MR. SLADE:

Q But if an amateur or anybody created a station, he can create words to mean entirely different things, and be nothing you know of in the radio world, words coming from that particular station, which you say is not a legal station or designated station?

A Yes, I would know.

Q Explain to the jury how you would know?

A The radio amateurs all have standard abbreviations -  
Q That is not responsive; that is not competent, what they have. I am asking you whether it is not possible; take myself or yourself, say: "John you are going to Ireland and I am going to send you GB and GX. When you get that you will know Mabel and I are going to dance, and you will know I am taking your girl out." That is the understanding when that is sent over the radio, and is not legal you say, and you intercept that message, and then you come here and tell us that means anything different, because you know according to the standard system it is a local station and it would necessarily mean something else?

OBJECTION: MR. WOODCOCK:

That is not a fair question, because the testimony is otherwise. This was a series of calls observed from this station from March 17 to April 10. It is not a question of one isolated use of a particular symbol. It is a continuous and careful observation, and this man is testifying as an expert -

BY MR. SLADE:

Q I am not going to limit myself to one sentence, but I am going to send you the following message for the next month while you are in this particular section, any word to your girl, mother, father and brother -

THE WITNESS: What is the question?

Q The question is you and I had an understanding and created this particular system of understanding as the meaning of words sent over a station that is not local, that there is nothing in the world to indicate that was anything else except what we meant it to be?

A As I stated before, the construction of the message would be the only way I would have of telling whether that GM meant "Good Morning."

Q So you take the standard meaning, regardless of what I and my friend may agree to put on those words. That is what you tell the jury?

A (No answer)

Q Suppose you were in position to intercept the interesting communications between my friend in Ireland over a period of a month or six weeks, would this particular signal coming in in a particular way over that period, from your experience as a radio man, would you be able to tell what it was and to recognize it.

A I would be able to recognize it and know after that length of time that GM did not stand for the standard abbreviation, that it had some arbitrary meaning.

BY MR. SLADE:

Q In other words, you guess that instead of using for the purpose you and I have a secret in our minds to

mean, that you should -

MR. WOODCOCK: Guess is not the word.

MR. SLADE: Please do not interrupt me.

A I would -

Q You would make a guess. In other words, you would apply the standard method which you say is used in the signsof intercepting messages from the radio station, that because these words mean the following, if sent long enough, the only words they must mean is the standard -

MR. WOODCOCK: Give him a chance to answer.

MR. GEX: He is on cross examination.

MR. SLADE: I haven't finished my question.

THE COURT: Your questions are quite argumentative.

MR. SLADE:

I thought I was cross examining him. That is all.  
Thank you.

- - - - -

THEODORE G. DEILER: Witness, being duly sworn and examined on behalf of Government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Theodore G. Deiler.

Q What is your position with the government?

A Right now radio inspector for the Federal Radio Commission, in charge of the local office for the Federal Radio Commission.

Q And your official position is what?

A My official position; you mean the duties?

Q No, what is the name of your position?

A The name of my position, at present is Acting Radio Inspector in charge.

Q How long have you been in that position?

A For the Federal Radio Commission since July 24, 1932, but I have been in this position, Radio Division, foreman Department of Commerce, I have been in the Department of Commerce since December 1920.

Q And during that period have your duties been with the supervision of radio connections?

A Yes sir.

Q Since 1920 for the government?

A Yes sir.

Q Now during February and March 1931 were you in New Orleans?

A Yes sir.

Q And what were your duties at that time in connection with radio?

A Duties generally the enforcement of the wireless communication laws. We have supervision of all licenses, radio transmission of all types. That means

broadcasting stations, amateur stations, point to point stations, all classes.

Q Do you know, or did you know at that time the stations which were licensed to transmit messages to foreign places, or to ships at sea?

A I did.

Q What kind of a license is that called?

A From one point to another is called point to point. Now from New Orleans to a ship is called general public service.

Q And then is there such a thing as amateur license?

A Yes.

Q And you knew the people in New Orleans who had amateur licenses?

A Yes sir.

Q And the point to point people and the ship people?

A Yes.

Q In the course of your duties during that period did you pick up any signals from a place with call letters GD and HX?

A You referring to April -

Q At any time from March to April of 1931?

A Yes.

Q Did you make a memorandum of each time?

A I did.

Q And did you know, or could you from your experience

determine where these call letters were originating from? A No sir.

Q Did you make any attempt to determine the place where these signals using the call letters GD and HX were coming from?

A Yes. At the time of the raid, yes.

Q At the time of the raid; you mean April 11th?

A Yes sir.

Q Did you make any effort before that?

A No sir.

Q Did you record the messages that were sent following these call letters GD and HX?

A On April 11th, yes.

Q Where were you when you did that?

A On the fourth floor of the Custom House, New Orleans.

Q What time of the day was it?

A That was seven - the first reading - at least the first observation was at 7:04 A. M. Central Standard Time.

Q And what did you hear at 7:04 Central Standard Time on that morning of April 11th?

A Heard the local station calling the one down below. I have to refer to my notes to make sure which one.

Q Will you refer to your notes?

A (Witness refers to documents) The local station was calling HK.



Q What were the call letters of the local station?

A The call letters of the local station were GD.

Q Was that the first time you ever heard those call letters?  
A Yes sir.

Q So your knowledge of this thing is confined to the morning of April 11th?

A Yes sir.

Q At that time you heard the call letters GD and HX?

A Yes sir.

Q Could you tell where HX was?

A Not from hearing them, no sir.

Q Did you ascertain subsequently where the other call letters was, GD?  
A Yes sir.

Q And where was that?

A That was at 2748 Gladiolus St., Andres residence out there.

Q What kind of license did Mr. Andres have?

OBJECTION: MR. SLADE:

We object to that as not binding upon us, irrelevant and immaterial. I cannot see how ~~that~~<sup>we</sup> can possibly be connected in any way.

MR. WOODCOCK: It is part of the case.

THE COURT:

As I recall the evidence Mr. Morrison arranged with Mr. Andres to send these messages.

MR. SLADE:

Right, Your Honor, but whether he had a license or did not have any -

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q What kind of license did Mr. Andres have?

A Amateur station license, amateur operators license.

Q Did that permit him to send messages as far as Belize, Honduras?

OBJECTION: MR. WALLACE:

Objected to as a conclusion of the witness as to the rules and regulations of the Department of Commerce -

BY THE COURT:

Q Do you know of your own knowledge that the man procured license that would permit him to send messages that distance?

A Yes, Your Honor.

Q You mean you know, or it was?

A Yes sir.

BY MR. WOODCOCK:

Q What was your answer to the question?

A The license that was issued to Mr. Andres would permit him to send messages to any place in the world that he could reach.

Q Did the license prescribe the wave length, or wave

band that he should use?

A Yes, amateur regulations.

MR. WALLACE:

May we ask if there has been a ruling upon the objection that was interposed. I do not believe there was any ruling.

THE COURT: I overrule the objection.

MR. WALLACE: Exception.

BY MR. WOODCOCK:

Q Now, were the signals JD and HX which you observed on the morning of April 11th, were they sent according to the wave length that Mr. Andres should have?

A The signals were not sent according to the wave length, I believe that call was GD.

Q GD and HX?

A Yes sir.

Q What wave length were they sent by?

A They were slightly varying, but they were sent in the average of 7550 kilocycles, varying about 20 kilocycles from that. In either case, they were out of the band.

Q Just what do you mean by being out of the band?

A Amateur stations are permitted 7,000 to 7,300 kilocycles, and these signals were around 7,500. I have the exact measurement.

Q What is the exact measurement?

A The exact measurement at first was 7566.312 kilocycles.

Q That is what Andres was using?

A That was 8:04 A. M., Andres was using that.

Q And what was the wave length?

A The wave length was 39.7 meters.

BY MR. SLADE:

Q That I understand has reference, Mr. Witness, to the 11th of April?

A The 11th of April only.

BY MR. WOODCOCK:

Q Now is an amateur license permitted to charge money under his license for transmission of signals to a foreign country, if you know?

A That is in the regulations.

OBJECTION: MR. SLADE: I object.

THE COURT:

I think you had better offer the regulations.

BY MR. WOODCOCK:

Q Have you a copy of the regulations?

A Yes sir.

Q Will you point out; I do not want you to read the whole thing -

A Section 3, sub-paragraph D. "Amateur stations shall not transmit or receive messages for hire or engage in communications for material compensation, directly or indirectly paid or promised."

Q Then to sum up your testimony I understand what you have stated, while Andres had the right as an amateur to send messages to any place, he had to send them within the amateur band, and could not charge for them?

A He could not charge for them.

(NO CROSS EXAMINATION)

- - - - -

MRS. ELIZABETH SMITH FRIEDMAN: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name?

A Mrs. Elizabeth Smith Friedman.

Q What is your residence? A Washington, D. C.

Q What is your occupation?

A I am a Cryptanalyst.

Q And how long have you been in that position?

A I have been in this profession since 1916.

Q Since 1916 you have been a Cryptanalyst?

A Yes.

Q And what are the duties of a cryptanalyst?

A A cryptanalyst is a person who analyzes and reads secret communications without the knowledge of the system used.

Q And you have been doing this since 1916?

A Yes.

Q Now what part of that period have you been with the government?

A I have been with the government most all of the time I have been occupied as a Cryptanalyst. I have been employed by the War Department, Navy Department, State Department, and the Treasury Department.

Q And you have been doing this work constantly since 1916?

A Well, with time off for illness and travel and such things.

Q It has been your profession since 1916? A Yes.

Q Have you ever testified in Court as a Cryptanalyst?

A Yes.

Q Where and when?

OBJECTION: MR. GEX: We object to that.

MR. WOODCOCK: I am qualifying her as an expert.

THE COURT:

If you will acknowledge she is qualified as an expert -  
BY MR. WOODCOCK:

Q Have you qualified in other Courts as an expert?

A Yes.

Q United States Courts throughout the country?

A Yes.

THE COURT: The witness is qualified.

BY MR. WOODCOCK:

Q Have you been studying deciphering certain messages sent up to you from Special Agents at New Orleans?

A Yes.

Q In February 1931 and March 1931? A Yes.

Q And you have been down here on the same matter before have you not? A Yes.

Q Now have you copies of the messages that were sent up to you?

A Yes, I have. These are the messages as they were sent to me. (Witness referring to documents)

Q Have you a message which we will identify as 6:07 P. M. April 8, 1931? A 6:28 P. M.

Q 6:07 P. M. is what I ask for first. Can you find that one?

A I am sorry. Can you identify the message from the -

Q The words: "Slate, Fable, Shoot, Bowsky." It starts at "Quids, Abgah, flash -"

A What is the second word?

Q The second word is Abgah. It is HX from GD here No.1 to JB check 13, and it starts at Quids, Abgah, Flash, Slate -

A I am sorry; I do not have that message.

Q You said you had one dated what hour of that day?

A I have one at 6:28 P. M. April 1st.

Q 8th of April? A April 8th?

Q Is that what you are talking about?

A I have that message of April 8th. I have one at 7:05 A. M. on April 8, 1931. I have one 7:13 P. M. on April 8th, 6:42 P. M. -

Q Just a minute. Have you one at 7:06 A. M.?

A Yes. I have one at 7:06 on April 8th. I have that.

Q All right. Now then, see if they - I am showing the witness one of the exhibits - see if your copy is the same as this -

OBJECTION: MR. GEX:

I think the way to examine this witness is to let her have those original yellow sheets made by the witness who made the entries at the time, and if she has studied that message, she can testify her interpretation of it.

MR. WOODCOCK: That is exactly what I have done.

MR. GEX:

Can you put some identification on them; there are a mass of them?

MR. WOODCOCK: It is identified by the time.

BY MR. GEX:

Q You have an "X" on that?

A Yes. I think the copy I have lacks the first word on



this copy. That is the only difference. However, that is immaterial, that first word -

MR. SLADE: Wait a minute.

MR. WOODCOCK: She is testifying as an expert.

THE COURT:

She stated that is immaterial, she says it is a copy.

BY MR. WOODCOCK:

Q Have you studied that message? A Yes.

Q And what does it mean in the English language?

OBJECTION: MR. WALLACE:

Now comes the defendants and object to the testimony of the witness, because it elicits a conclusion and it is opinion.

THE COURT: Give your opinion as an expert.

MR. WALLACE:

She is not properly qualified by the record, and we desire first to specify that the objection is predicated upon the theory she is not qualified to testify as an expert, and second, that the testimony offered, is incompetent, irrelevant and immaterial, which seeks the conclusion of the witness.

THE COURT: Overruled.

MR. WALLACE: Exception.

THE WITNESS:

I believe I am asked my opinion of the reading of this message?

OBJECTION: MR. WALLACE:

We object to what she takes it.

THE COURT: Just give your opinion.

MR. DOWLING:

Unless she is an expert on positions of ships, I object to her opinion as to what the position meant.

THE WITNESS:

That is irrelevant. I was just going to say the word "position" is the pass word -

MR. DOWLING: I was talking about position.

BY MR. WOODCOCK:

Q Have you translated that? A Yes sir.

Q Turn to 7:21 A. M. on that same day. It is on the yellow sheet you have in your hand?

A (Witness does as requested) I have one here for that time.

MR. WOODCOCK:

I am calling the witness' attention to the message offered in evidence on the yellow sheet, 7:21 A. M., and ask her what it means in English?

MR. SLADE: May I look at it?

MR. WOODCOCK: Yes.

MR. WOODCOCK: What are you saying to the witness?

MR. SLADE:

I asked her when she marked the "2" to mark it

THE COURT:

Yes. The objection goes to each of these readings,  
and you may have your exceptions.

MR. WALLACE:

Will Your Honor instruct the stenographer to note our  
exceptions.

THE COURT: The stenographer will note your exceptions.

THE WITNESS: May I make a statement?

MR. WOODCOCK: Yes.

THE WITNESS:

This is not a matter of opinion. There are very few  
people in the United States, not many it is true, who  
understand the principal of this science. Any other  
experts in the United States would find, after proper  
study, the exact readings I have given these. It is  
not a matter of personal opinion -

MR. WOODCOCK: Well, never mind that.

OBJECTION: MR. GEX:

I ask all that be excluded. I think it is very improper.

THE COURT: Let all that statement go out.

BY MR. WOODCOCK:

Q What is the translation?

A "HAVE ONLY SEVENTY NINE CASE COLONEL PINTS. MELHADO  
HAS NO SUPPLY. WHAT SUBSTITUTE FOR THIS ORDER FOR  
COROZAL. CONCORD LEFT. GOING TO POSITION SUNDAY NOON."  
I take it that means

THE COURT: Yes.

A The reading of the message is: "TRANSFER MAVIS BARBARA CARGO TO HALCON INSTALL RADIO WILL GIVE POSITION AFTERWARDS PLEASE SEND MAVIS BARBARA HOME."

BY MR. WOODCOCK:

Q What is the date of that, Mrs. Friedman?

A 7:06 A. M. April 8, 1931.

Q Read that translation once more. I did not get it?

A "TRANSFER MAVIS BARBARA CARGO TO HALCON INSTALL RADIO WILL GIVE POSITION AFTERWARDS PLEASE SEND MAVIS BARBARA HOME."

Q Thank you. Now have you a message of March 24th at 6:14 P. M. I show you this copy? (Hands document to witness)

A Yes, I have it.

Q You have that message. Will you take the one that is in evidence and examine and say whether you received that and studied it and can translate it?

MR. GEX: Will you kindly mark that X-1.

A Yes. They are identical. The reading of the message and -

OBJECTION: MR. WALLACE:

May we have the permission of the Court to consider our objections to the interpretation of each message offered to the witness on the same grounds, without repetition?

alongside this "X" to distinguish it, so we will not be confused by those figures you have.

THE COURT: Mark each one as you go along?

A I have it.

Q All right. Read it?

A "CONCORD NUMBER 29 AND 30 LOADED SHALL COROZAL PROCEED WHEN REPAIRED TODAY OR WEDNESDAY MORNING."

Q Now will you come down to the next message 7:24 A. M., same day?

MR. WALLACE: I notice an erasure down at the -

THE WITNESS:

That was at the request of this gentleman (indicating) I put "2" alongside the "X".

MR. SLADE:

That is right, so there would be no confusion.

BY MR. WOODCOCK:

Q Give the next one, 7:24 A. M., the next one?

A Yes, I have that. How do you want this numbered?

Q X-3.

A The reading of this message is "INFORM CONCORD PROCEED LATITUDE -" then two groups which I must leave blank - "AND LONGITUDE -" which I must leave blank, because the code words were garbled in transmission.

Q Now then, will you turn to 7:07 A. M. on March 24, on the same sheet?

A Yes, I have it.

Q All right, what does it read?

A "START WEDNESDAY" - according to my numbering that is X-4. The date of that message was 7:07 A. M. March 24, 1931.

Q Now I show you message X-5 of 6:08 P. M. on March 25, and ask if you have that?

A Yes.

Q Read that?

A I have this message that reads: "COROZAL LEFT WILL ARRIVE SUNDAY MIDNIGHT."

Q I show you message marked H-6, of 7:06 A. M., March 25th, and ask you if you have that message?

A Yes, I have it.

Q What does that read?

A "SUBSTITUTE FIFTY CANADIAN CLUB BALANCE BLUE GRASS FOR COROZAL STOP REPEAT TUESDAY WIRE CONCORD<sup>GO</sup>/TO LATITUDE 29.50 LONGITUDE 87.44."

Q Now have you a message of 6:22 P. M. of March 27, which will be X-7?

A Yes.

Q Have you these words here? (Indicating)

A Yes.

Q But your memorandum has what date?

A March 26th. Let me check it up on the original?

MR. WOODCOCK:

I have the date of her translation of the words, the time.

OBJECTION: MR. SLADE:

I object to you stating any such conclusion. Let the witness tell us that.

BY MR. WOODCOCK:

Q Let me ask the question and then you can object to it. Have you translated a message of exhibit, yellow sheet, at 6:22 P. M. March 27, 1931: have you such a message and have you studied it?

A I have such a message and I have studied it. The words of the message are identical with these words. I think it is under date of March 26th.

BY MR. SLADE:

Q And what does the exhibit show?

A That the words of the message are identical.

Q The exhibit shows what date?

MR. WOODCOCK:

March 27th. Of course, the Court and Counsel will understand this<sup>is</sup> her memorandum of what -

MR. SLADE:

That is exactly what she is testifying from, so we will have to be guided by her memorandum and the date she has.

BY THE COURT:

Q Take the yellow sheet and read that, irrespective of the date?

A Yes, I can do that. "WHEN ROSITA IS LOADED PROCEED TO LATITUDE 29.35 LONGITUDE 87.25."

BY MR. WOODCOCK:

Q Now I show you message X-8, the date being 7:30 A. M. March 27th, and ask you if you have translated that message?

A Yes, I have that. That message was: "COROZAL RETURNED YESTERDAY SKIRT " which I will not attempt to explain - "WILL TRY LEAVE THIS MORNING WILL ARRIVE TUESDAY MORNING."

Q Which one of these words -

A Skirt.

Q The third word?

A This is it. (Indicating)

MR. WOODCOCK: She cannot interpret the word "Skirt."

THE WITNESS: My opinion is it means "boat."

OBJECTION: MR. SLADE:

Just a minute. I object. The witness cannot read it; she admits she cannot read it.

THE COURT: Sustain the objection.

BY MR. WOODCOCK:

Q Turn to 6:31 P. M. March 8th?

BY A JURYMAN:

We are to pass that word up, her opinion that she thought that word was "boat?" Are we to pass that up?



THE COURT: That was excluded, her statement.

THE WITNESS:

According to the defendants' Attorneys, everything I say is opinion -

MR. WOODCOCK: That is all right.

Q New March 28th at 6:30 P. M., X-9? A Yes.

Q Will you read the translation?

A That reads: "WEATHER GOOD AND OKAY WILL ARRIVE SUNDAY FOUR CUTTER FOLLOWING."

Q The rest of that message is in English?

A Well, that did not come to me.

Q You have not translated the rest of it?

A It is translated there.

Q Will you read it?

OBJECTION: MR. SLADE: I object to her reading it.

THE COURT:

Let the witness look at it and tell the jury whether she can.

THE WITNESS:

It is not code and cypher. That is talk between the operators.

MR. WOODCOCK: It is written out in English.

OBJECTION: MR. SLADE: It speaks for itself.

THE COURT: Leave that out.

Q You translated that section? A Yes.

Q Which is in the cipher?

A In code; in cipher code, to be correct.

Q Read the translation again, please?

A "WEATHER GOOD OKAY WILL ARRIVE SUNDAY FOUR CUTTER  
FOLLOWING."

Q What is your next one?

OBJECTION: MR. SLADE:

May we have a ruling from Your Honor as to that part  
of this specific exhibit X-9, the English writing  
as contained therein as between the operators -

THE COURT: That will be excluded.

MR. SLADE: Thank you.

Q I show you message X-10, 7:06 A. M., March 28, and  
ask you if you have examined it?

A Yes.

Q What is the translation of that?

A "WHEN ROSITA IS LOADED PROCEED LATITUDE 29.35 LONGI-  
TUDE 87.25."

Q Now I ask you if you have translated message X-11, of  
7:18 A. M. March 30th?

A Yes.

Q Translate the message of that?

MR. SLADE:

May it first appear on the record that this lady says  
that the word "whole" from that message she has not

previously interpreted, and hasn't it on her message.

MR. WOODCOCK:

But she says she can translate it.

THE COURT:

All right. Let her read from the yellow paper.

A It will take me a minute to look up that word. May I take that time?

BY MR. WOODCOCK: Yes. Take your time.

A I have it.

Q All right.

A "LOAD ROSITA WEDNESDAY. WE HAVE NO WHISKEY. WHEN READY PROCEED TO POSITION."

BY MR. SLADE:

Q The word "whole" means that? A Yes.

BY MR. WOODCOCK:

Q Now, I show you message X-12 of 6:10 P. M. March 31st and ask if you are able to translate that?

A Yes.

Q Translate the message I showed you, if you can; take the yellow sheet?

A Those words mean "ROSITA LEFT. WILL ARRIVE TUESDAY."

Q Now I call your attention to X-13 of April 1, 1931, and ask if you can translate that, at 6:15 P. M.?

A Yes. "MAVIS' BARBARA HERE BUT MONEY -" I have a question mark after that word "money" - "AT NASSAU AND

HALIFAX THE REST TWENTY FOUR HUNDRED FROM ST. PIERRE  
ABOARD MAVIS' BARBARA. CAN YOU SAIL." That last word  
I think is an error for "sell".

OBJECTION: MR. SLADE:

I ask that be stricken out, if Your Honor please, her  
observation as to what she thinks.

THE COURT: Exclude that, gentlemen.

BY MR. WOODCOCK:

Q Leave it blank?

A "CAN YOU -----".

Q Read the message over again?

A "MAVIS' BARBARA HERE BUT ----- AT NASSAU AND HALIFAX.  
THE REST TWENTY FOUR HUNDRED FROM ST. PIERRE ABOARD  
MAVIS' BARBARA CAN YOU -----."

MR. SLADE:

May it also be noted that on that particular paper  
marked X-13, there are certain parts in longhand.

MR. WOODCOCK:

You mean something more to it?

MR. SLADE:

No. I am saying there are other statements in longhand.

MR. WOODCOCK: That is not in code?

MR. SLADE:

That is what I mean. Will Your Honor make a ruling on  
it?

THE COURT:

Exclude such as the witness added to it by way of her interpretation?

MR. SLADE: That is what we want, Your Honor.

THE COURT: All right.

BY MR. WOODCOCK:

Q I show you message X-14 at 7:11 A. M. April 1, 1931?

A Yes.

MR. WOODCOCK:

I ask that the witness be permitted to take her time to translate that one.

THE WITNESS:

Your Honor, I can only give the meaning for one word of this message. I can give no meaning at all for this word. (Indicating) This is an indicator and has nothing to do with the meaning, and this -

BY MR. WOODCOCK:

Q Which word can you translate, "whole"?

A Yes.

Q What does that read?

A "WHEN WILL YOU ARRIVE."

MR. WOODCOCK:

I underscore the part of the message she translated.

A (Witness continues) This has nothing to do with the meaning. This word I can give no meaning. (Indicating)

BY MR. SLADE: The word "Adrift?"

A I have no meaning for it.

Q What is this? (Indicating)

A This is not a bonafide word.

OBJECTION: MR. SLADE:

I ask that be stricken out, also the witness' answer.

THE COURT: The witness stated just one expression.

MR. WOODCOCK: I underscored the word.

MR. SLADE:

I want the record to show what part she cannot translate.

THE COURT: The message is in evidence.

MR. SLADE: It is not marked.

THE COURT: I will permit you to cross examine her about it.

BY MR. WOODCOCK:

Q I show you X-15 at 6:23 P. M., April 2, 1931?

A "MAVIS BARBARA HERE BUT MONEY AT NASSAU AND HALIFAX.  
THE REST TWENTY FOUR HUNDRED FROM ST. PIERRE ABOARD  
MAVIS BARBARA. CAN YOU -----."

Q Now I show you message X-16 of 1:54 A. M. April 2,  
1931. Translate so much of that message, or that part  
of the message which begins with "Birds, Worse -

A "CANNOT REACH YOU TOMORROW. THURSDAY."

Q Can you also translate that part which your memorandum  
does not have, "Quids, Abgar -

A I have that.

Q You have that?

A 1:54 A. M. April 2nd?

Q Yes. A It reads: "START US."

Q That is all, "START US"? A Yes.

Q I show you message X-17 of 1:35 A. M., April 2, 1931?

A "ROSITA LEFT. WILL ARRIVE TUESDAY. LEON JUIN UNLOADED.  
LOST PICKET. GENERAL TOSTA IS WILLING TO GO TO NASSAU  
FOR REPAIRS AND DRYDOCK." Let me change that word,  
"GO TO -----." I must question that.

Q Which word is that?

A The word "could".

Q You are doubtful as to "could"? A Yes.

Q Read the message again?

A "ROSITA LEFT. WILL ARRIVE TUESDAY. LEON JUIN UNLOADED.  
LOST PICKET. GENERAL TOSTA IS WILLING TO GO TO -----  
NASSAU FOR REPAIRS AND DRYDOCK."

Q Now I show you message X-18 of April 3, 1931 at 6:44  
P. M.?

A "MUST LEAVE. STARTING TWO FRIDAY."

Q Message X-19, 6:08 P. M. April 2nd?

MR. WOODCOCK:

The witness omitted the second word "Creek".

A "-----FIVE HUNDRED TWENTY FOUR CASES, WHAT IS YOUR  
POSITION? SHORE BOAT SLOWER THAN SECOND COMING. STOP."

It doesn't say second coming of what; just second coming, that is all.

MR. WOODCOCK: The witness omitted "Adebi".

A It is garbled word. "-----IF NOT UNLOADED SOON SHALL RETURN BELIZE. STOP. AM GETTING VERY THIRSTY. DO NOT DRINK ALL THE BEER. REGARDS TO THE GANG."

Q I show you message X-20 of 6:23 P. M., April 5th?

A That message reads: "Miss C. B. 's --"MISS C. B. 'S POSITION 29.45. CONCORD'S POSITION 29.50, 87.44. BOTH ON POSITION STOP. NEW BOAT BEING USED MAVIS BARBARA'S CARGO. WILL ADVISE AFTERWARDS."

Q Now I show you message X-21 of April 4, 1931, at 6:41 P. M.?

A "WILL ARRIVE TUESDAY MORNING."

Q I show you message X-22 of 6:12 P. M., April 4th?

A "TRANSFER MAVIS BARBARA'S CARGO TO FIRST VESSEL EQUIPPED WITH RADIO AND RECEIVER. PROCEED LATITUDE 29.35, LONGITUDE 87.25. STOP. REMOVE MAVIS BARBARA'S RADIO. STOP. WILL COME ----- CONCORD AND MISS C. B. RADIO POSITION OF BOAT ALSO THEIR CALL LETTERS. PLEASE ANSWER. AWAITING ANSWER." "Abjit" I cannot interpret.

MR. SLADE:

The word "Abjit" is not deciphered.

BY MR. WOODCOCK:

Q Now I show you message X-23 at 7:08 A. M. April 6th,



and ask you to translate that one?

A This message reads: "ADVISE CONCORD. ARRIVING TUESDAY."

Q Now I show you message X-24 of 7:14 P. M. April 7th,  
and ask you to translate that?

A "ON POSITION. PLEASE ADVISE LUGGER TO -----  
ORDER. PLEASE ADVISE WHAT WE SHOULD DO."

MR. SLADE:

Let it be noted that the word "wheat" is not deciphered  
on X-24.

BY MR. WOODCOCK:

Q Will you read the message without that word now, please?

A "ON POSITION. PLEASE ADVISE LUGGER TO -----ORDER.  
PLEASE ADVISE WHAT WE SHOULD DO."

Q Now I show you X-25, 6:28?

A I have that message. I have some more here.

Q Translate the part you have here. That is April 7th?

A I have it with a little more on it here. I can read  
it to the "Stop".

Q Just read it to the "Stop"?

A "CAN ARRANGE TRANSFER MAVIS BARBARA CARGO TO SCHOONER  
HALCON NEW BOAT STOP. CAN INSTALL RADIO AND HAVE  
RECEIVER. STOP."

Q "Can install radio and have receiver." Is that what  
you said? A Yes.

Q I show you message X-26 of 7:05 A. M. April 7, 1931,

and ask you to translate that?

A "POSITION MUST BE ADVISED WHEN."

Q Now I show you message X-27, 6:42 P. M. April 8th?

A "CUTTERIZED. CARGO ON BOARD TWO HUNDRED THIRTY FIVE CASES. PLEASE ADVISE WHAT WE SHOULD DO."

Q What station is that from?

A GF to JG.

OBJECTION: MR. SLADE:

I ask that be stricken out. That certainly is some information somebody gave to this lady.

MR. WOODCOCK: The exhibits speak for themselves.

Q I show you message X-28 of 6:18 P. M. April 8th?

A (Witness refers to documents) I do not think I have it.

MR. WOODCOCK:

I will lay that message aside and let her look it up afterwards, may it please the Court.

THE COURT: All right.

MR. WOODCOCK:

Will Your Honor bear with her a few minutes to translate another message?

THE COURT: All right.

THE WITNESS:

That message reads: "I AM ON POSITION SIX FISHERMEN THERE ----- CUTTER FOLLOWING."

Q Now I show you X-29 of 6:07 P. M. April 8th?

A Let me leave this word blank. (Indicating)

Q Leave out the word "Abgon", the second word. It has nothing to do with it.

OBJECTION: MR. SLADE:

I ask that observation be stricken out.

THE COURT:

Yes, exclude that statement of Counsel.

MR. WOODCOCK:

That was her statement. It was her opinion.

THE COURT: Exclude it.

A "-----IN ONE WEEK IF YOU CAN REMAIN ON POSITION.  
IF NOT RETURN HOME IMMEDIATELY. ADVISE."

Q Now then, I show you message X-30 of 7:06 A. M.  
April 8th?

A "TRANSFER MAVIS BARBARA'S CARGO TO HALCON. INSTALL  
RADIO. WILL GIVE POSITION AFTERWARDS. PLEASE SEND  
MAVIS BARBARA HOME."

Q I show you message X-31 of 7:07 A. M. April 9th?

A This message reads, the first part of : "DELAYED.  
-----SATURDAY." "PROCEED THIRTY SEVEN MILES  
FROM CHANDELIER LIGHT? LATITUDE 29.44 LONGITUDE 88.15.  
WILL ADVISE MINUTE INTENDING TO COME." The last word  
is blank. "wheel" is blank.

CROSS EXAMINATION:

BY MR. GEX:

Q How shall I address you, Madam or Miss?

A I am Mrs. Friedman.

Q Mrs. Friedman, I understand the symbols sent you, you know nothing at all about them, but you received a copy of the symbols, which they asked you to analyze and translate?

A Yes.

Q Before you could properly translate these symbols, somebody had to tell you it was symbols in reference to the liquor transportation?

A Oh no. I might receive symbols pertaining to murder or narcotics.

Q Could the same symbols be used in a conspiracy in the Mann Act of bringing girls here from another country?

A They could have, but it would be my business -

Q Well -

MR. WOODCOCK: Let her answer.

MR. GEX: I thought she was through. Go ahead.

A (Witness continuing) - Such symbols could be used for such purposes, but it would not be possible for me to say they referred to liquor when they actually referred to the Mann Act.

Q Well, what symbols refer to liquor as a symbol itself?

A This is a code. You cannot say that - I cannot tell you which symbol refers to liquor without going through the entire thing.

Q It is not a standard code; a code these gentlemen may have made up themselves? A Yes.

Q Then you had to take all the words and the whole correspondence to fit them in?

A Yes. That is my business to analyze.

Q You mean to tell this jury the same words could not have been used in a conspiracy to violate the Mann Act?

A Not with the meaning that was given them here.

Q I know; you gave them the meaning?

A No, I did not give them the meaning. The meanings were not created by me and put alongside the code words. I obtained these meanings by scientific analysis. I did not obtain them by any guess work.

Q Suppose I used the word "Cora" to mean "whiskey", and the Colonel here used the word "aim" to mean "whiskey", how would you analyze it?

OBJECTION: MR. WOODCOCK:

That is not a fair question. I object.

MR. GEX: She is under cross examination.

THE COURT: Just explain.

A If I did not receive anything except those two words, it would be impossible for me to state that one meant one thing and the other meant another thing, or that both meant the same thing. My business is to analyze

material of which I have a sufficient amount to demonstrate with the scientific analysis applied. I do not state that I can solve anything. It depends upon the amount of material I have on the type of system used.

Q You would not tell this jury that the same symbols these gentlemen used to mean what you say, whiskey, beer, position, could not have been made up by people in code for transportation of women from Europe?

A These symbols could have been used for that purpose, yes.

BY THE COURT:

Q But you do say they were not used for that purpose in this case?

A Yes.

Q And you determined that from study of all symbols you used in their relation one to the other?

A Certainly.

BY MR. GEX:

Q The word "beer" appears in there once. What symbol did you interpret to mean "beer"?

A We took a great deal of time to look that up. If you will find the message for me.

Q Would you tell this jury then, that word used as the symbol for "beer", you only saw it once, that you knew that meant "beer?"

A I am not sure it was a symbol. It may have been in

English. Will you look up the message?

Q Will you kindly look at X-19?

MR. WOODCOCK:

We will look it up for you. (Witness refers to document)

"Beer" happens to be written out there in plain English.

(Hands document to witness)

A Yes, it is an English word.

BY MR. GEX:

Q So you were not deciphering that; you were reading  
what was in this message? A Yes.

Q This is not your original memorandum. It is a type-  
written copy? A Yes.

Q Have you your original memorandum with you?

A Yes, I have.

Q You say you have? A Yes.

Q You have been testifying from the typewritten copy?

A Yes, partly.

OBJECTION: MR. WOODCOCK: She was not. I object.

THE COURT:

The Court ruled in the beginning the witness would  
have to testify from the yellow slips, but could re-  
fresh her memory from the typewritten sheets.

MR. WOODCOCK: She was shown it in every case.

BY MR. SLADE:

Q Let me ask her for the purpose of objection. This is

not your original notes? (Indicating)      A    No.

OBJECTION: MR. SLADE:

We move her testimony be excluded, because she is not translating from her original notes, but a type-written copy.

THE COURT: Overruled.

MR. SLADE: Exception.

THE COURT:

We have that very clear. The Court only permitted her to refresh her recollection from some carbon copies she had, but the testimony is from the original yellow sheets.

MR. WOODCOCK:

Counsel knows that; he was standing by her.

THE COURT: I have ruled on that, gentlemen.

MR. SLADE:

Yes, Your Honor, but I do not think it is fair for the Colonel to make that statement.

THE COURT:

The Court doesn't think it fair to make the objection interposed at this time. You may have an exception. Proceed with the examination.

OBJECTION: MR. SLADE:

The testimony goes to striking out all of that testimony upon the objection I urged to ~~exclude~~ its



admission. I am not attempting to trifle with the Court. I move that all of the testimony of this lady be stricken out upon the same grounds which I urged to its admission.

THE COURT: Motion overruled.

BY MR. SLADE:

Q Mrs. Friedman, when these -

MR. WOODCOCK:

May I arise to make this point? Is there a rule as to the cross examination -

THE COURT:

If Mr. Gex is finished with his cross examination, I will let Mr. Slade cross examine.

MR. GEX:

I am finished. I represent a different group of defendants.

MR. WOODCOCK: Whom do you represent?

MR. GEX:

Morrison is one of them, and I am associated with others, but I cross examined on behalf of Mr. Morrison.

THE COURT:

The Court will make this observation. Even though attorneys representing different groups, the Court will not permit different attorneys to cross examine on the same matter that some other Attorneys have

cross examined on.

MR. SLADE: We will obey the rule.

Q When these messages were brought to you, by whom were they brought?

A They came by mail.

Q With a letter of instructions?

A Yes, letter of request.

Q Were you told the nature and character of the case to which they have application?

A (Witness refers to documents) No. The letter of transmittal does not mention any persons.

Q Not persons. Did it mention the nature and character of the case, or concerning liquor?

A No.

Q Say anything at all about the character of the case, and what information the government was seeking?

A No.

Q Any objection to my looking at it?

THE WITNESS: Any objection, Mr. Woodcock?

MR. WOODCOCK:

This lady is under another department of the government. I want to protect her before I turn her documents over.

MR. SLADE: That is quite all right.

MR. WOODCOCK:

(Referring to document) I have no objection to that letter. It happens to be addressed to myself.

THE COURT:

Gentlemen, I want to keep this within the bounds of the proper issue. What difference does it make what instructions this witness received. The proposition is what did she do, and the witness as at great length taken these yellow slips in evidence and read the originals of the notations of the man listening in, and she gave that as her rendering of those messages.

MR. SLADE:

I do not think it would be fair to put Counsel in a position where we would be obliged to disclose the real purpose of every question. I do not think I am in any way wasting time. I think in my humble opinion, it is leading to something else, if the letter is of the character I think it is.

MR. WOODCOCK:

I am perfectly willing for him to see them. There are two letters. You can read both of them in the record.

MR. SLADE:

I do not want to read them into the record; I just want to see them.

MR. WOODCOCK:

There is nothing mysterious about them. I would be very

glad to have them read. (Hands documents to Mr. Slade)

BY MR. SLADE:

Q I have in mind one addressed to you?

A This is the one that concerns me.

Q You haven't one directed to you?

A No, except as mentioned here, comes through the channels as the government states it.

BY MR. WOODCOCK:

Q Let the jury see what it is?

OBJECTION: MR. SLADE:

It is not <sup>at</sup> all right for my friend to point out to the jury -

THE COURT:

That is what happens when you start out on things that are not properly at issue here.

MR. SLADE:

I asked about a letter to her, not to him. If she hasn't any, that is all I want to know.

MR. WOODCOCK:

I think we have gone this far, she should explain the letter.

MR. SLADE: I have no objection.

THE COURT: What is the question?

BY MR. SLADE:

Q The question is, have you any information either from

the prohibition department or any other department, telling you anything in relation to this case?

A No. This is all I received. It makes no mention of any case, or any persons.

Q And you never discussed this case with anybody, did you?

A To my recollection, I have not. I handled those messages.

Q I am directing myself specifically to this case. Did you discuss with anybody this case and the subject matter thereof, and what the government was seeking to prove?

A No, I never interviewed a single member of the prohibition department. This comes to me as an expert. I analyze the material and produce the results.

Q Did they interview you? A No.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Did you ever discuss this case with me?

A No. I never saw Mr. Woodcock until yesterday morning.

Q And then I was too busy to talk to you?

A Yes.

BY THE COURT:

Q The rendering you gave in the presence of the jury, is the best rendering to the best of your knowledge of the characters you saw on the yellow sheets of paper?

A Yes sir. May I make a word of explanation?

MR. SLADE: I do not think that is proper.

THE COURT:

You have answered the question. That is all.

OBJECTION: MR. WALLIS:

Comes the defendants now and move the Court to exclude the testimony of the witness, for the reasons heretofore stated in objections and motions to strike.

THE COURT: Motion overruled.

- - - - -

WALDO OTIS: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Waldo Otis.

Q Mr. Otis, where is your home?

A Bay St. Louis, Miss.

Q You are Mr. Waldo Otis? A Yes sir.

Q What business are you engaged in?

A Employed by the Standard Oil Co. at present.

Q What business were you in in January, February and March 1931?

A I was Manager of the Hotel Weston four years prior to April of last year.

Q The Hotel Weston is where?

A Bay St. Louis.

Q Will you please state whether in January or February of 1931 you had a guest giving the name of J. J. Jones?

A Yes sir.

Q Will you look around and see if you can state whether Mr. J. J. Jones is in the Court room?

A I don't see him, Sir.

BY THE COURT:

Q Get down off the stand and point him out, walk around and look around?

A (Witness does as requested)

BY MR. WOODCOCK:

Q I ask you if you have ever seen this defendant here? (Indicating)

A Possibly so.

Q Now remember you are testifying in a Court of justice, and look at this man and say whether you in fact have ever seen him before? (Indicating)

A Not that I can recall. That could be. I have seen him, but I don't recall his looks.

Q Did the man that you knew first as J. J. Jones wear glasses?

A I don't think so.

MR. WOODCOCK:

May the defendant be requested to remove his glasses as he did yesterday?

OBJECTION: MR. GEX:

Same objection. The witness says he does not think so, does not know. I do not think that is fair. Since yesterday I had occasion to look that question up, and the Court held in my humble opinion that it was forcing one to give evidence of himself, or supplying the method of giving evidence.

BY THE COURT:

Q The man you knew as W. J. Jones, did he wear glasses at that time?

A If so, I didn't see the glasses; not that I can recall. That was two years ago or more. I am giving it to you the best I remember.

MR. WOODCOCK:

We will come back to it.

THE COURT:

If Counsel is not willing for him to remove his glasses, I will not require him to do it.

BY MR. WOODCOCK:

Q Did you at about the same time have a guest going under the name of Buckley?

A Yes sir.

Q Did you have any business dealings with either of these gentlemen?

A Yes sir.

OBJECTION: MR. GEX:

I object until he identifies the parties he has refer-



ence to as defendants in this case and what dealings he had.

THE COURT:

This man Buckley you refer to is one of the defendants?

MR. WOODCOCK: Yes, Your Honor.

MR. GEX:

He has not identified the defendant.

MR. WOODCOCK:

It will be followed up to show that Buckley is one of the defendants. That is the name under which one of these men indicted used as an alias.

MR. SLADE: In this case?

MR. WOODCOCK: That is my recollection.

THE COURT: Is the defendant present?

MR. WOODCOCK:

Yes, Your Honor, one of the defendants indicted under the alias of J. R. Buckley.

THE COURT: Let him identify him.

MR. WOODCOCK: I will get around to that.

Q Mr. Otis, after seeing these two gentlemen whom you knew as Jones and Buckley in the spring and winter, winter rather of 1931, when did you next see them?

A I saw Mr. Buckley in Court over here.

Q In the U. S. Commissioner's office?

A Yes sir.

Q There was a hearing before the U. S. Commissioner,  
was there not? A Yes sir.

Q Did you identify him then as being present in the  
room? A I did.

Q Under what name was he going at the time you identified  
him in the U. S. Commissioner's office?

OBJECTION: MR. SLADE:

Objected to as far as the defendant Morrison is con-  
cerned.

THE COURT:

That is only evidence against the defendant he is tes-  
tifying about.

A Ask that again, please?

Q You saw this man Buckley who had been at your hotel,  
before the U. S. Commissioner at that hearing. Now  
what name did you learn was his real name then?

A The only name I knew him by was Buckley.

Q Did you point him out before the Commissioner?

A As Mr. Buckley that I knew.

Q And were you advised under what name he was charged  
with an offense?

OBJECTION: MR. GEX:

We object to that. That would be hearsay.

THE COURT:

Information as to what name he was being tried under.

What difference does that make if the defendant is here and he can identify the defendant?

MR. WOODCOCK:

I am dealing with an obstinate and unwilling witness, and I have got to bring this matter home to him.

OBJECTION: MR. SLADE:

I take exception to that observation. The witness apparently from my point of view is testifying to the best of his knowledge.

THE COURT: I overrule the objection.

MR. SLADE: Exception.

BY THE COURT:

Q Did you recognize the man known as Buckley before the Commissioner on that day?

A Yes sir.

Q You identified him before the Commissioner?

A Yes sir.

Q You testified against him on that date?

A Yes sir.

Q Would you know that man if you would see him today?

A Yes sir.

Q Do you see him in the Court room, whatever his name may be?

A This gentleman sitting over there. (Indicating)

BY MR. WOODCOCK:

Q Come down and put your finger on him?

A (Witness does as requested) This gentleman.

BY THE COURT:

Q That man has been to your hotel as Buckley, and you can identify him?

A Yes sir.

MR. WOODCOCK:

Let the record show that man responded to the name of Merchant O'Neal when called for arraignment.

OBJECTION: MR. GEX:

We object to that, when arraigned, if Your Honor please.

THE COURT:

Let the record show the witness pointed out the man who entered his plea of not guilty when arraigned, under the name of Merchant O'Neal.

OBJECTION: MR. GEX:

We object to that, when arraigned.

BY MR. WOODCOCK:

Q At the same time you pointed out Mr. Buckley before the U. S. Commissioner, did you point out the man who had been at your hotel under the name of Jones?

A No sir. If he was there I did not see him.

Q How long did this Mr. Buckley stay at your hotel?

A He was in and out over a period of, I should say roughly, two months, be there for a few days and gone for a few days.

Q Would you recognize the registry of your hotel?

A I think so.

Q (Counsel hands witness document)

A This is our registration card. I did not see him when he registered, but that is a record we had of him being in room 55 on the 1st month 12th day of 1931.

Q You have some independent recollection that that is the card?

A That is the card we had on file. I won't say positively.

Q Are these the bookkeeping records?

A That is what we call the rack cards.

Q They are kept under your jurisdiction and supervision?

A Yes sir, showing the days of the week, and on the back the incidental expenses, laundry and so forth.

Q How long do these cards show that Mr. Buckley was there?

A Well, on all these cards I would say for a week. There may be some in there for longer, monthly rate or weekly rate.

Q How long was Mr. Buckley there?

A I do not remember the exact time, but off and on for two months, as I said.

Q You know these are the records of your hotel?

A They are.

Q You did not physically do that writing?

A Yes sir.

Q You did?

A This is the card of the clerk on duty who enters this card in the ledger.

Q And you know that is his card?

A Yes sir.

Q Did you make any of those entries yourself?

A No sir, the clerk made them.

Q But you do recognize them as entries made by your clerk?

A Yes sir.

Q And do you recognize this registration card as the card of your hotel?

A Yes sir.

OFFER: MR. WOODCOCK:

I offer in evidence the registration card of the Hotel Weston in the name of F. R. Buckley, January 12, 1931, as Government Exhibit-32.

OBJECTION: MR. GEX:

To which offer we object on the ground there is no evidence so far in any way connecting any act or acts committed at Bay St. Louis, Miss.

THE COURT: Overruled.

MR. GEX: Reserve a bill.

OFFER: MR. WOODCOCK:

And similar offer of cards in the name of F. R. Buckley

of the Hotel Weston. There are three of these which we ask to have marked Government Exhibits 33, 34 and 35.

MR. SLADE:

That is under the same ruling and exception?

BY MR. WOODCOCK:

Q I show you some sheets of paper and ask you what they are?

A These are telephone sheets, or the sheets we keep on the watch.

Q Of your hotel? A Yes sir.

Q You recognize them? A Yes sir.

Q They are kept under your supervision?

A Yes sir.

Q You recognize the handwriting of the clerk there who made them? A I do.

OFFER: MR. WOODCOCK:

I offer these sheets in evidence, which are obviously the books of the Hotel Weston, for the purpose of the telephone calls made by this same man Buckley.

MR. HOLLINS:

I suggest the witness do the testifying, if Your Honor please.

MR. WOODCOCK:

I have no objection to limiting it to the sheets upon which Mr. Buckley's name appears, the first sheet,

limited to the entry relating to Mr. Buckley. That would be Government Exhibit-36.

MR. SLADE: Limiting it to the exception.

BY MR. WOODCOCK:

Q Did you have any talk with Mr. Buckley while he was there regarding the shipment of lumber, or the purchase of lumber? A I did.

Q What was the conversation between you and Mr. Buckley in that respect?

A Well, I did not have any conversation with Mr. Buckley in reference to the purchase of the lumber, of any lumber I should say. I did with Mr. Jones.

Q Was Mr. Buckley present? A No sir.

Q The question was did you have any talk with Mr. Buckley about the purchase of lumber?

A Not in the beginning, no sir.

BY THE COURT:

Q The question is at any time?

A At any time, yes sir. I misunderstood him.

BY MR. WOODCOCK:

Q At some later time you did have some talk with him?

A Yes sir.

Q What was that talk?

MR. SLADE: Fix the time.

BY MR. WOODCOCK:



Q The time he was at your hotel?

A Yes sir.

Q Can you fix the month?

A It was probably - I don't know the exact date, but it was probably in January of 1931.

Q Certainly at the time the book shows he was at your hotel?

A At the time.

Q What was this talk with Mr. Buckley about the shipment of lumber?

OBJECTION: MR. SLADE:

Objected to as not binding upon the defendants, no foundation having been laid.

THE COURT:

For the present that will be restricted to the defendant Buckley.

A What was that question again please?

Q What did Mr. Buckley say to you about the shipment of lumber?

A The first conversation I had with Mr. Buckley with reference to lumber, was from time to time he would order from me so much lumber, so many thousand feet of such and such size, 2 x 3; 1 x 12 or 4 x 4, as the case might be.

Q Did Buckley make any statement to you with reference to this man Jones who was there, his relation to him?

A I do not know that he made any statement to that effect, but it seems as though they were in business --

OBJECTION: MR. SLADE:

I object to what it seems as though.

BY THE COURT:

Q Were they both there at the same time?

A As I recall it once, maybe twice. Mr. Jones was there very little, in fact, I do not recall seeing him more than two or three times.

Q Did Mr. Buckley make any statement to you as to what the relationship was between he and Jones?

A They were together on one occasion, and one of them, I don't remember which, ordered some lumber, seemingly that they were in the business together.

MR. SLADE: I ask that be stricken.

MR. WOODCOCK: They were together.

THE COURT: They were together.

BY MR. WOODCOCK:

Q They were together when Buckley ordered the lumber or when Jones ordered the lumber?

A I can't recall which one, because each ordered lumber at one time or another.

Q Well now, did you have any agreement with Buckley as to what he was to do with this lumber?

A None other than to deliver it at the point of delivery.

Q Where was the point of delivery?

A On the H. Weston Lumber Co. railroad, approximately 18 to 20 miles north of Logtown.

Q Does that place have a name?

A Generally known as Pecan Farm.

Q There are pecan trees there?

A Yes sir.

Q That is where the lumber was to be delivered?

A Yes sir.

Q Who was to do the hauling of it?

A My brother was in the truck business. He hauled all of the company's lumber, piling, and so forth. He hauled the lumber from the mill to this point at Pecan farm.

Q You have still a third brother?

A Yes sir.

Q What is his name?

A Lamar.

Q Who was the brother hauling the lumber?

A Sidney.

Q What was Lamar's business?

A With the H. Weston Lumber Co.

Q Did he have any control over this railway?

A Yes sir.

Q On how many different times did you or your brother deliver lumber up to this pecan farm?

A Oh, I would say five or six times.

Q And can you fix the dates more accurately?

A No sir, I can't offhand.

Q Did you ever go with either of these gentlemen to the railroad, ever introduce either of these gentlemen to Mr. Yarborough?

A I did not introduce either of them. I rode down the lake shore with Mr. Buckley one day, I don't remember whether morning or afternoon. I was sitting on the porch of the hotel, and he came out and said: "You want to ride down the street?" I said: "Yes -"

Q Who said that, Buckley?

A Yes, Buckley. We rode down the lake shore. He got out and I sat in the car.

Q Was Mr. Yarborough there? A Yes sir.

Q Do I pronounce that name correctly?

A Yes sir.

Q He had what to do with the railroad?

A Agent there at that time.

Q What railroad? A L&N..

Q Does the logging railroad connect in with the L&N at Ansley?

A Yes sir.

Q What did Yarborough have to do with it?

A He was agent at Lake Shore.

Q Did he have control over Ansley?

A Yes sir.

Q You took Buckley down there?

A No sir. Buckley took me down.

Q You rode down there with Buckley?

A Yes sir.

Q At the time that Buckley and Jones were there, who else was in that party?

A Well, that is more or less hard to say.

Q Well, was there a man named Meyers down there?

A Yes sir.

Q Did you ever see Meyers the second time?

A Yes sir.

Q Where did you see him?

A Same place I saw Mr. Buckley in the Commissioner's Court.

Q Can you state what name he was using before the United States Commissioner when you saw him there?

OBJECTION: MR. SLADE: I object, incompetent.

BY THE COURT:

Q Do you know what name he was arraigned and tried under before the United States Commissioner?

A I was never officially informed, but I was told Goldberg.

Q You learned that at the Commissioner's trial?

A Yes sir.

OBJECTION: MR. GRACE:

What charge the Commissioner made, and the name the government used has no materiality to this hearing.

If the defendant is present, let him identify him.

BY THE COURT:

Q Is the man being called Goldberg here?

A The man I knew as Meyers is here today.

BY MR. WOODCOCK:

Q Go down and point him out?

A (Witness does as requested)

Q That is the gentleman who was at your hotel under the name of Meyers?

A Yes sir.

MR. WOODCOCK:

I would like the record to show this is the gentleman who was arraigned yesterday and pleaded not guilty under the name of Nate Goldberg.

THE COURT: The record will show.

BY MR. WOODCOCK:

Q How long was Mr. Goldberg at your hotel?

OBJECTION: MR. GEX:

My objection goes to all this testimony as to what occurred at the Weston Hotel or vicinity of Bay St. Louis, Miss.

THE COURT: Overruled.

MR. GEX: exception.

A Roughly I would say in and out of there from six

weeks to two months.

Q Will you state whether or not at one time you assigned a particular part of your hotel to these gentlemen; you have a part called the annex?

A We have.

Q Was there any time these gentlemen lived there?

A I don't think they did.

Q Now I ask you if you recognize these documents? (Counsel hands witness documents and witness examines same)

A Yes sir.

Q What is that?

A That is our registration card.

Q By whom?

A Alfred Meyers.

Q Is that the gentleman you just pointed out?

A I didn't see him register, but that is the record we kept in reference to him.

OBJECTION: MR. GEX:

I object to that on the ground it is purely hearsay.

BY THE COURT:

Q That record was kept by the hotel?

A Yes sir.

Q So far as you know was there any other Alfred Meyers there during that period of time, except the one you testified about?

A No sir.

THE COURT: Overruled.

MR. GEX: Reserve a bill.

BY MR. WOODCOCK:

Q Now this mark here, what is that the registration of?  
(Indicating)

A J. J. Jones.

OFFER: MR. WOODCOCK:

I offer that subject to proof that one of these defendants were there.

THE COURT: All right.

MR. WOODCOCK:

I am just getting him to identify it, this underneath here.

A That is the card rack.

Q Of what?

A Room 43.

Q Under what names?

A Jones and Meyers.

Q What does that mean?

A That means two parties occupied the rooms by the name of Jones and Meyers.

Q These men Jones and Meyers were in the same room?

A Yes sir.

Q That is what the record shows?

A That is what the record shows, yes sir.

OFFER: MR. WOODCOCK:

We offer in evidence the registry at the Hotel Weston of Alfred Meyers on the 10th of January 1931, and of J. J. Jones on the same date at the same hotel, subject



to be followed by proof that Jones is one of the defendants, and showing that they occupied room 43.

OBJECTION: MR. SLADE:

Subject to the same objection.

BY MR. WOODCOCK:

Q Is this the same Jones; (indicating) It is a different date. If you do not know just say so?

A This is J. Jones. The other was J. J. Jones.

Q Were there two men there?

A Not that I can recall.

MR. WOODCOCK:

I will not offer that for the moment.

Q Now did you have any talk with Mr. Meyers regarding the shipment of lumber or otherwise?

A Yes sir.

Q What was the talk with Mr. Meyers?

A I met Mr. Meyers and Mr. Jones together. They were in the lobby of the hotel, and as I try to do with all the guests, I walked over and spoke to them.

Q What did Mr. Meyers say to you about lumber, if anything?

A In the course of conversation, one of the two, I do not remember which, happened to remark that they were in the timber business. I said we were too.

OBJECTION: MR. SLADE:

We ask that be stricken out. He says he does not know which one.

THE COURT: He says both were present. Overruled.

MR. SLADE: Exception.

A (Witness continuing) I said I am with the H. Weston Lumber Co., of which I am a stockholder, which was in the lumber business for the last 50 or 60 years, but practically cut out. One word brought on another, and they said: "We want to buy some lumber". We had two or three million feet at Logtown, and I asked them what size they wanted and so forth and they told me. I said: "Well, there is plenty up there if you want it." They asked me if I could get a price for them on this particular kind of lumber they wanted. I told them that I could, which I did. Then I saw where I could pick up a little bit on the side, a few dollars a thousand, which I did. I bought the lumber from the H. Weston Lumber Co. and in turn sold it to them at a profit.

Q By they, whom do you mean?

A Meaning Jones and Meyers.

BY THE COURT:

Q Were they both present when the agreement was made between you and them for the sale of it?

A Yes sir.

BY MR. WOODCOCK:

Q How long did Meyers and Jones and Buckley stay there; did they all stay the same length of time or different times?

A May I ask a question to get the point?

THE COURT: Yes.

A You mean over a period of two months?

Q I want to know how long they were there at the time they were there?

A Buckley was there longer than any of the others. Mr. Meyers was there from time to time, and Mr. Jones, I don't think he was there but two or three times.

Q How many consignments of lumber did you handle?

A Five or six, I think.

Q Now, did either of these gentlemen tell you where this lumber was to be shipped?

A Where the trucks were to deliver it.

Q Well, you stated that. That was at the pecan farm?

A Yes sir.

Q But where was the ultimate destination?

A No sir.

Q (Counsel continuing) - They did not say that?

A They did not.

Q You did know it was to be delivered and loaded into box cars?

OBJECTION: MR. SLADE:

The witness did not say so. The witness said to be delivered to pecan farm.

THE COURT: That is all he said.

A That is as far as I know.

Q There is a logging road there? A Yes sir.

Q And you did see one of these men go up to the station agent at - A Lake shore.

Q I would like to get the location clearer. You are at Bay St. Louis? A Yes sir.

Q Do you know where Kiln is? A Yes sir.

Q How far was that from Bay St. Louis?

A Approximately 14 miles north.

Q Where is this pecan farm with reference to Kiln?

A Practically due west.

Q And about how far?

A That is probably 14 or 15 miles.

Q Now where is this place where the station agent lives?

A Lake Shore.

Q Lake Shore; where is that?

A In reference to where, Kiln or Bay St. Louis?

Q Anywhere, Bay St. Louis, yes.

A That is about eight miles west of Bay St. Louis.

Q Which is the closer to Bay St. Louis, the pecan farm or Lake Shore?

A Lake Shore.

Q That is about how far? A About eight miles.

Q Is there a railroad at Lake Shore?

A Yes sir.

Q The main railroad is there, isn't it?

A The L&N.

CROSS EXAMINATION:

BY MR. GRACE:

Q There is nothing unusual in the transaction of the purchase and sale of lumber?

A Nothing that I could notice.

Q Perfectly legal and legitimate transaction?

A I thought so, or I would not have had any dealings with it.

Q And you had no particular reason to remember what was said or done any more than any other legal transaction?

A No sir, nothing unusual about the transaction.

Q That occurred about two years ago?

A Yes sir.

CROSS EXAMINATION:

BY MR. GEX:

Q The charge in the Indictment reads that you are one of the conspirators. I ask if you met any of these gentlemen in New Orleans? A No sir.

Q The charge of these defendants, whose names I will call

as being in that conspiracy with you - Robert Jackson,  
do you know him; do you know whether he is white or  
black? A No sir.

Q Did you ever meet here with him in New Orleans or any-  
where?

A No sir, I don't know him.

Q Do you know Buster Malini? A Yes sir.

Q Did you ever meet him here in New Orleans to form a  
liquor conspiracy?

A The only time I seen him in New Orleans, I came over  
to see him fight.

Q He is a prizefighter by profession?

A Yes sir.

Q Louis Cameron, do you know him?

A I know him by sight.

Q Do you know Henry Dandridge? A By sight.

Q Sam Dandridge? A Yes sir.

Q Jim Dantzler? A No sir.

Q You do not know whether he is white or black?

A No sir.

A Booker Gaines, do you know him? A No sir.

Q Do you know N. T. Hass? A Yes sir.

Q He is a merchant at Kiln? A Yes sir.

Q Blaine Lee? A No sir.

Q Tom Malini? A Yes sir.

Q Charles Martin?

A No sir.

Q Leander Necaise?

A Yes sir.

Q Iles Parker?

A No sir.

Q I ask you if you ever met those gentlemen, any of them, in New Orleans, or ever entered into a conspiracy, or know of their having been in a conspiracy with you, or any of these other men that you talked about today, to transport liquor?

OBJECTION: MR. WOODCOCK:

I object to that; conclusion.

THE COURT: I will let him answer it.

MR. GEX: Charged in the Indictment; he is charged.

THE COURT:

Showing he was not in it would not excuse the others.

MR. GEX:

I am asking about them. I know he was not in it.

Q Did you ever -

A No sir.

Q Did you ever meet them in New Orleans?

A No sir.

THE COURT: He has answered all that.

BY MR. GEX:

Q You do not know a man named Morris?

A No sir.

Q Have any business dealings with him?

A One person living in Bay St. Louis named Morris.

Q You do not see him in the Court house here?

A No, I don't think so.

MR. WOODCOCK: Whom were you talking about?

BY MR. HOLLINS:

Q Do you know either Frank Ritter or Ray Miller?

A No sir.

Q Do you see them here in the Court room?

A I don't know them.

BY MR. WAGUESPACK:

Q Do you know a man by the name of Sam Carrolla?

A No sir.

Q Frank Todaro? A No sir.

Q Pascal Tuminello? A No sir.

BY MR. DOWLING:

Q Do you know John E. Garcia? A No sir.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q I show you some documents here and ask if you recognize these?

A Yes sir. That is the number 433, one of the trunk lines at the switchboard at the hotel. The other number is -

Q Is this recorded?

A No sir. That is kept by the telephone company - wait a minute -

Q It was delivered to you, you had it in your possession,



didn't you; look at it carefully?

A Yes, I get that. I was thinking about a different message.

Q Can you say what that is?

A I would say that is outgoing and incoming telephone calls passed through the switchboard at the Hotel Weston.

OFFER: MR. WOODCOCK:

We offer these in evidence, may it please the Court.

OBJECTION: MR. SLADE:

Mere observation shows these are purely hearsay; telephone communications on a trunk line, guests coming and going; how could that be admissible in this case.

MR. WOODCOCK:

We offer to show who these calls are to.

THE COURT:

Does the paper itself show who it was to?

MR. WOODCOCK:

It shows the numbers in many instances.

THE COURT: You propose to follow that.

MR. WOODCOCK: The same as these other defendants.

THE COURT: Take it out until you do.

MR. WOODCOCK:

I am willing to that. I will mark that Government Exhibit 40 for identification.

THE COURT:

Gentlemen of the jury, you are excused until 2:15 P. M.

Do not discuss the case during recess.

Adjourned until 2:15 P. M.

- - - - -

AFTER RECESS: 2:15 P. M.

MR. WOODCOCK: I would like to recall Mr. Andres?

THE COURT:

All right. Let the witness Andres be recalled.

CHARLES ANDRES: RECALLED:

BY MR. WOODCOCK:

Q Mr. Andres, you testified yesterday that at the instigation of Mr. Morrison, whom you knew by the name of what?

A Burke.

Q You sent some radio batteries to some place in Texas. I want to show you a paper and ask if you recognize that? (Counsel hands witness document and witness examines same)

A Yes sir.

Q What is that?

A That is the express receipt for the package containing the merchandise.

OFFER: MR. WOODCOCK:

I offer this in evidence, Your Honor, as Government Exhibit-41.

OBJECTION: MR. SLADE:

Subject to the same objection, Your Honor, not binding on the defendants.

THE COURT: Overruled.

MR. SLADE: Exception.

- - - - -

SIDNEY OTIS: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Sidney Otis.

Q Mr. Otis, where do you live?

A I live in Logtown, Miss.

Q Is that near Bay St. Louis?

A It is about 20 miles from Bay St. Louis.

Q What business were you in, in January and February and March of 1931?

A I was in the tiling business and general trucking.

Q You are a brother of Mr. Waldo Otis, are you not?

A I am.

Q And do you remember his arranging for you to haul some lumber about that time? A I do.

Q Did you meet the man that you were to haul it for?

A I merely met a couple of them.

Q You merely met a couple of them. What names did they give you?

A One by the name of Mr. Jones and the other one by the name of Mr. Buckley.

Q One named Mr. Jones and the other named Mr. Buckley. Did you ever see them a second time?

A I saw Mr. Buckley I think, the second time.

Q Where did you see him? A In the hotel.

Q Do you remember if before the Commissioner here?

OBJECTION: MR. GEX: We object to that.

THE COURT: Overruled.

MR. GEX: Exception.

BY MR. WOODCOCK:

Q Did you or did you not? A I did.

Q Did you see Mr. Buckley here then? A No sir.

Q You did not see him? A No sir.

Q Did you see Mr. Jones?

A I did not. I came before the Grand Jury.

Q You saw him before the Grand Jury?

OBJECTION: MR. GEX:

He said he came before the Grand Jury.

BY THE COURT:

Q You mean you came before the Grand Jury and not the Commissioner? A No sir.

BY MR. WOODCOCK:

Q You were not before the Commissioner?

A No sir.

Q Well now, would you be able to recognize Mr. Buckley if you saw him again?

A I don't know if I could or not.

Q Suppose you look around at these defendants and see if you recognize any one of them as Mr. Buckley? Some of these gentlemen are lawyers.

MR. SLADE: He can take a look at all of us.

BY THE COURT:

Q Get down and look around, all around the table over there?

A I don't recognize any one that looks like him.

BY MR. WOODCOCK:

Q Have you looked at all these people?

A Yes sir.

Q You took a mighty cursory view of them. Come down here? This is serious, Mr. Otis. Look at each of these men in the back row and see if you have ever seen any of them before?

A (Witness does as requested) I do not recognize anyone that looks like Mr. Buckley.

CROSS EXAMINATION:

BY MR. GEX:

Q Mr. Otis, it is charged in this Indictment that you entered into a conspiracy or into an agreement with the following gentlemen, whose names I will call:

Louis Cameron, Henry Dandridge, Sam Dandridge, Jim Dantzler, Leon Fox, Booker Gaines, Talbot Green, N. T. Haas, Alfred Jackson, John Knight, Blaine Lee, Philip Malini, Buster Malini, and Ilos Parker -

OBJECTION: MR. WOODCOCK:

I object to the question as irrelevant and immaterial.

Q (Counsel continuing) - to import liquor into the United States in violation of the Tariff law, and radio law, and the National Prohibition Law. I will ask you do you know of your own knowledge whether any of those gentlemen ever had an agreement to do that thing with you?

OBJECTION: MR. WOODCOCK:

Objected to as irrelevant and immaterial.

THE COURT:

I will let him answer it if he had any agreement with them.

A What is the question again?

Q Did you have any such agreement?

A I did not.

Q As a matter of fact you do not know two-thirds of the defendants; you do not know any of the defendants?

A No sir.

Q Do you know any of these Mississippi boys at all?

A Do I know them?

Q Yes.

A I know Mr. Necaise; I know him.

Q Did you ever meet him in New Orleans?

A I did not.

Q Is he the only one of the boys you know at all?

A As far as I know, yes.

- - - - -

LAMAR OTIS: Witness, being duly sworn and examined on behalf of Government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Lamar Otis.

Q Mr. Otis, where do you live? A Logtown.

Q What was your occupation in the winter of 1931?

A I was secretary of the various companies over there.

Q Did you have anything to do with the logging railroad?

A Yes sir. I had charge of the operation of it.

Q Where does that road run from?

A From Picayune to Westonia to Logtown, and then from Westonia to Ansley.

Q Where does it join up with the L&N Railroad?

A Ansley.

Q Are you familiar with Pecan farm?

A Yes sir.

Q Does that railroad run up there? A Yes sir.

Q Did you arrange for the placing of some cars there to load lumber?

A Yes sir.

Q At whose instigation did you do that?

A Waldo Otis, my brother, asked me to place the cars there for parties staying at the hotel wanted to ship some lumber, and ask me to handle the cars.

Q How many cars did you place there?

A I have forgotten the exact number, possibly 12 or 14. I don't remember the exact number.

Q Were you paid for this service?

A Yes sir.

Q Who paid you?

A Paid for the freight on the cars, paid it to Waldo; handed it to Waldo and he handed it to me.

Q The money came from Waldo to you?

A Yes sir.

Q And what were the cars to be loaded with?

A Lumber and wood.

Q Did you ever see any of the principals?

A No sir.

Q Your contact was with your brother?

A Yes sir.

Q How far is this pecan farm from Ansley?

A Well, it must be about 20 miles.

Q Do you know where this lumber came from?



A Some of it came from Logtown.

Q Is the pecan farm - how far is that from Logtown?

A About 12 miles.

Q How far is Logtown from the L&N Railroad?

A About 10 miles, I guess, 10 or 12 miles.

Q And you never had any contact in this matter with anyone except your two brothers?

A That is all.

MR. GEX:

You mean anyone in this conspiracy? May I ask that to save time?

THE COURT: That might include all persons.

MR. WOODCOCK:

My question was his contact was only with his brothers.

MR. GEX: That is all, if he means anyone.

- - - - -

JOSEPH J. YARBOROUGH: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Joseph J. Yarborough.

Q Mr. Yarborough, you are the station agent of the L&N Railroad at what place?

A At Lake Shore. Now at the present time, I am at Pass Christian.

Q But in the winter of 1931 you were at -

A Lake Shore.

Q And how does that lie with Bay St. Louis?

A About seven miles south of Bay St. Louis; that is west you may call it, west of Bay St. Louis.

Q Do you remember arranging for the moving of some cars from the pecan farm, loaded at the pecan farm on the Logtown Railroad, or logging railroad over the L&N Railroad?

A I remember arranging to order some cars, but I did not know they were being loaded at pecan farm. I know they were being loaded at the Weston track some place.

Q Who made the arrangements for the moving of these cars with you?

A Emilio Cue brought two men down and introduced them to me, one introduced as J. J. Jones and the other fellow, I don't recall just what his name was, and he introduced this fellow Jones as a lumber broker, and this fellow Jones told me he would have several cars of lumber to ship, 6, 8 or 10, to Northern points. I think he mentioned the names of St. Paul, Chicago and Cleveland, I think.

Q There has been testimony here by Waldo Otis; do you know him?

A Yes, I know all of them.

Q He rode to your station with a man named J. J. Jones and got out and talked to you. Do you remember that incident?

OBJECTION: MR. SLADE:

I object to that. I do not think that is proper.

THE COURT:

I do not think it is proper to tell the witness what he testified to, but just ask him if he remembers.

BY MR. WOODCOCK:

Q Do you remember any incident of Mr. Waldo Otis and J. J. Jones, or either of them coming to you to talk about these cars?

A The only time I remember Waldo Otis came down with a fellow, I think his name was supposed to have been Buckley, and Waldo Otis and he came down one evening to get bills-of-lading for a car that had been shipped, and while he was there he told me to order another car, he would need another car in a day or so, another car ordered for Ansley.

Q Would you recognize the bills of lading issued for these cars?

A I think I would.

Q I will ask you if that is -

MR. WOODCOCK:

I have the originals here by another witness, may it please the Court, but I want to offer to produce the

originals a little bit later.

Q Have you ever seen that document? (Counsel hands witness document and witness examines same)

A Yes sir.

Q What is that?

OBJECTION: MR. SLADE:

I object. The document speaks for itself. We object on the ground it is not the original.

THE COURT:

I guess you had better bring in the original.

MR. WOODCOCK:

I ask that this witness step off the stand a moment then. The originals are in the custody of Mr. Cutter.

MR. SLADE: We might dispense with it, if you say -

THE COURT: Bring in the originals and identify them.

- - - - -

H. P. CUTTER: Witness, being duly sworn and examined on behalf of the government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A H. P. Cutter.

Q What is your occupation?

A Auditor Freight Accounts for L&N Railroad.

Q You have custody of the bills-of-lading issued from Ansley during the winter of 1931?

A I have copies of them.

Q The original bills-of-lading goes to the shipper?

A Goes to the consignee.

Q You have retained the copy that the railroad retains as its record?

A I have.

Q Will you produce those?

A (Witness does as requested)

Q What is this first? A Conductor's waybill.

Q Covering the same car? A Yes sir.

Q And the second one?

A Copy of bill-of-lading.

Q This is the original so far as you are concerned?

A Yes sir.

Q That is the only record you have?

A Yes sir.

OBJECTION: MR. SLADE:

I object to his characterizing so far as he is concerned.

THE COURT: Overruled.

MR. SLADE: Exception.

Q And these documents are the conductor's waybill and bill-of-lading?

A Yes sir.

CROSS EXAMINATION:

BY MR. WALLACE:

Q Mr. Cutter, I believe you stated you were the Auditor of freight accounts for the L&N Railroad?

A Yes sir.

Q Your office is in Louisville, Ky.?

A Yes sir.

Q Isn't it a fact, when shipments are made over your carrier, the L&N, that the bills-of-lading are made in triplicate?

A Yes sir.

Q Doesn't the agent issuing the bill-of-lading mail to your office first the duplicate of the bill-of-lading for your records in Louisville?

A No sir.

Q What does he retain? A He retains the copy.

Q What does he do with the original?

A Sends it to the consignee.

Q What is the consignee required to do with that original bill-of-lading before shipment is delivered at point of destination?

OBJECTION: MR. WOODCOCK:

Objected to as irrelevant and immaterial.

- - - - -

MR. JOSEPH J. YARBOROUGH: RECALLED:

BY THE COURT:

Q What is your name? A Joseph J. Yarborough.

Q Didn't you make out these papers?

A Yes sir.

THE COURT:

I will exclude all this testimony. Let the witness who made out the paper testify.

BY MR. WOODCOCK:

Q Take the stand again, Mr. Yarborough?

A (Witness does as requested)

Q Do you recognize those papers there?

A Yes sir.

Q Did you make them out?

A Yes, I made those out myself.

Q What is the first paper?

A The first paper is the conductor's waybill.

Q What is the second one?

A The second one is the bill-of-lading.

Q And what is the next one?

A The next one is the conductor's waybill.

Q And the next one? .A Bill-of-lading.

Q And what is the next one?

A Conductor's waybill.

Q Will you just go through them?

A (Witness does as requested) Bill-of-lading, conductor's waybill, bill-of-lading, conductor's waybill, bill-of-lading, and conductor's waybill, another bill-of-lading and conductor's waybill, and bill-of-lading.

Q How many different cars do they refer to?

MR. SLADE:

Will you put the question if those are in his handwriting, and save a lot of time?

MR. WOODCOCK: Yes, I will put the question.

A Seven cars.

Q There are two papers for each car?

A Yes sir.

Q All in your handwriting aside from the printed part?

A Let's see them?

Q (Counsel hands documents to witness)

A Here is one that is not. (Indicating)

Q Is your name on that in any place?

A Yes sir.

Q That is your name? A Yes sir.

Q Your name is on every one of them?

A Yes, but I did not sign this one. One of the operators signed that, and put "U" under it.

Q You know that one of your subordinates did that?

A Yes sir.

Q You know that document was issued in your office?

A Yes sir.

Q Go ahead and finish your examination?

A I made all the rest of them.

Q With the exception of that one; and you recognize your clerk's signature? A Yes sir.

Q Do those documents refer to the cars of alleged lumber



that you were describing just now before you were excused from the stand?

A Yes sir. This is the shipment that was referred to.  
(Indicating)

OFFER: MR. WOODCOCK:

I offer those papers in evidence.

BY THE COURT:

Q As I understand your testimony, Mr. Buckley arranged with you about placing the cars and making these shipments in pursuance to your conversation?

A He was not the first man that came to see me. The first man that came to see me was a fellow supposed to be J. J. Jones. Buckley came to me later after two cars were sent out before I saw Mr. Buckley.

Q Do you think you would know the man Jones if you saw him?

A I don't know whether I would or not.

OBJECTION: MR. GRACE:

I object to the offer of these papers in evidence on the grounds previously urged, the acts which the witness testified with respect thereto in no way connected with the previous <sup>evidence</sup> in this case, and move to strike out his testimony, and all future testimony in respect thereto.

OBJECTION: MR. SLADE:

May I submit, Your Honor, that particularly with reference to one he cannot admit, which is not in his handwriting, knows nothing about it, except he recognizes the paper being signed by some subordinate.

BY THE COURT:

Q Did the clerk have authority and instructions from you to issue such bill-of-lading?

A Yes sir. It is commonly done in the stations. The operator often signs the bills-of-lading for the agent if the agent is not there.

THE COURT: I overrule the objection.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Mr. Yarborough, I want you to tell me if you ever saw this gentleman here. If your eyesight is poor, come down closer? A Yes sir, I saw him.

Q Where did you see him?

A He came to my office and shipped several of the cars and got the bills-of-lading from me. He was not introduced to me, but he introduced himself to me as Mr. Buckley.

Q I want you to come over closer and tell me if you have ever seen this gentleman here? (Indicating)

A I cannot really say that I have.

OBJECTION: MR. GEX:

We object to that. You cannot crowd your witness.

THE COURT: Overruled.

MR. GEX: Exception.

BY MR. WOODCOCK:

Q What do you mean by the statement that you really cannot say?

OBJECTION: MR. GEX:

I object to what he means. The witness' statement must be accepted by the jury and the Court. He says he cannot say that is the man.

THE COURT:

I will permit you to ask him whether he resembles the man who gave the name of Jones.

BY MR. WOODCOCK:

Q Can you say whether this gentleman here resembles the man who came to see you under the name of Jones?

(Indicating)

A He possibly has a slight resemblance.

Q Do you recall whether the man who came to you and said his name was Jones, was wearing eyeglasses or spectacles?

A I don't think he did.

Q And as far as you know, you say this man may have a slight resemblance to him?

A Yes sir.

OBJECTION: MR. GEX:

We ask that this testimony be excluded. He said he possibly resembled him, or might have a slight resemblance.

THE COURT:

That would not be sufficient, of course, but we will not exclude the testimony that the man who came did give his name as Jones.

MR. WOODCOCK:

I would like the record to show that the gentleman he pointed out as Buckley is the gentleman who pleaded not guilty under the name of Merchant O'Neal, and the other gentleman whom he says he possibly remembers, was the defendant Joseph O'Neal.

MR. SLADE:

Not possibly, but may resemble or might resemble.

MR. WOODCOCK: You may put it any way you wish.

MR. SLADE: No, what the record shows.

THE COURT:

I understand the stenographer has it correctly.

MR. SLADE: That is it.

CROSS EXAMINATION:

BY MR. GEX:

Q Joe, you were the gentleman that was the agent at Lake Shore at the time these cars were ordered?

A Yes sir.

Q Now the H. Weston Lumber Co. has a switch at Ansley; that is in Mississippi? A Yes sir.

Q How far west is that from Lake Shore?

A About three miles and a half.

Q There is no agent there?

A No agent there.

Q The Weston Lumber Co. had a saw mill railroad running from Ansley to operations at Logtown?

A Yes sir, all the way to Picayune, then their saw mill at Picayune to the Northeastern.

Q Station at Picayune? A Yes sir.

Q They hauled cars for many people on that logging railroad?

A Well, before that time they had been, yes.

Q Then the method of ordering cars would be for anybody to ask you to send cars out, and you would have it ordered to Ansley to connect with that logging railroad switch there. Is that right?

A Let me get this straight. When this occurred, the station at Ansley had just recently been closed. There had been an agent at Ansley.

Q I understand. I mean at this time when there was no agent there?

A I don't think we had been doing very much business at that time, and had been very few cars shipped.

Q But those that were ordered shipped, you requested them sent to the switch?

A Yes; sometimes ordered through Bay St. Louis.

Q These cars, did you order all of them out?

A No, some ordered through Bay St. Louis.

Q And you donot know who ordered them?

A Not all of them.

Q Anything in this paper to tell identically which ones you sent out; can you tell from any symbol?

A I ordered all the cars shipped out of Ansley after they were in there, but I mean ordering empties in there.

Q But you do not come in contact with the shipper when you order them shipped out of Ansley, do you?

A No sir.

Q The only time you come in contact with the shipper is when he particularly orders a car and makes out the bill-of-lading?

A Yes sir.

Q Which ones of these cars were orders through Bay St. Louis?

A I remember the first two cars that were placed in there were ordered from Bay St. Louis, because they were placed and loading when these gentlemen came to see me about making arrangements to ship them.

Q There are seven cars in the lot. Do you know any others

but those two shipped from Bay St. Louis?

A I cannot recall.

Q The modus operandi there is when you order cars from Bay St. Louis, you send in the requisition, and then send to Ansley, and then you order it placed on the switch at Ansley?

A Yes sir.

Q You have some seals to put on that car after it is loaded?

A Yes.

Q The seals are sent out in the woods?

A Not in all cases.

MR. WOODCOCK:

What is that; seals sent out where?

MR. GEX:

To the shipper. In other words, he won't assume responsibility for those cars until they are sealed.

MR. WOODCOCK:

Can this witness possibly testify to that?

THE COURT: He cannot testify to that.

A I told Mr. Jones and Mr. Buckley to seal these particular cars.

Q You never saw the cars themselves?

A No sir.

Q Even though you ordered them sent to Ansley, you gave them the seals?

A Yes sir.

Q And the bills-of-lading are brought to you?

A Yes sir.

BY THE COURT:

Q You took their word for the contents of the cars?

A Yes sir.

BY MR. GEX:

Q The bills-of-lading brought to you were for lumber?

A Yes sir.

Q You never saw the cars? A No sir.

Q Do you know how many of them had lumber on them, and how many did not?

A I don't know.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Mr. Yarborough, did you around the first of March receive a long distance telephone inquiry regarding either of these cars?

OBJECTION: MR. GEX: Objected to as hearsay.

THE COURT: You mean he had a conversation?

MR. WOODCOCK: Yes, Your Honor.

A After the procedure at Ansley?

Q Yes.

A Yes sir, I received a long distance telephone inquiry.

Q What name did the person give on the other end of the telephone?

OBJECTION: MR. SLADE:



Objected to as irrelevant, incompetent and immaterial, no foundation laid here as far as these defendants are concerned.

THE COURT: Overruled.

MR. SLADE: Exception.

A What was the question?

Q Where did the long distance conversation originate from, where was the other man calling from?

A He didn't tell me. He told me he was Jones, but he didn't tell me where he was.

Q Now what was his inquiry regarding these cars?

A He asked me to get the number of a certain car and give to him over the long distance telephone, which I did. I went to the depot; the telephone is across the street from the depot at Lake Shore.

Q Was it one of these cars we are referring to?

A Yes sir.

Q Did he or did he not make any reference to any Federal men?

A He did. He asked - let's see - if I am not mistaken he asked if the Federal men had been over my records, or something of that sort, and I told him yes, I believe, and then he asked me to get this certain car number, which I did, went to the depot and got the number and brought it back to him.

Q Is that the car that was seized at Ansley?

OBJECTION: MR. SLADE: I object.

THE COURT: If you know, you can testify.

A I am certain it was not; it was one of the cars that went out before that.

Q Did you get a subsequent call?

A Yes, I got a subsequent call, and he asked me for another number.

Q Of one of these same cars?

A One of the same cars that had gone out before.

Q And that man gave his name as Jones?

A Yes sir.

Q Could you say the voice was the same Jones as the man who had talked with you in person about these cars?

A Well, over the telephone I would not say that.

Q The man was interested in these cars and asked if the Federal people had been over your records?

OBJECTION: MR. SLADE:

I object to repetition. The witness has testified to that.

THE COURT: Sustain the objection.

MR. SLADE:

I move the testimony be excluded as to the telephone conversations, because the witness never identified the man talking to him at the other end of the line as

anyone in this Court.

THE COURT:

The witness testified the man gave the name of Jones, and that is for the jury to decide whether it was the same man.

MR. SLADE: Exception.

MR. DOWLING: That man has never been identified.

THE COURT: That is a question for the jury.

BY MR. WOODCOCK:

Q What else did this man say to you over this telephone?

OBJECTION: MR. SLADE:

Hasn't Your Honor ruled that out?

THE COURT:

I will let in the conversation if he can remember any more of it.

A I forget the words he used, but he told me: "Don't identify anybody and I will fix you up," or something of that sort.

THE COURT:

Gentlemen of the jury, that would only be admissible against the party who was at the other end of the telephone talking, and you are to judge from the testimony whether or not that was one of the defendants on trial.

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R. M. DUNPHY: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A R. M. Dunphy.

Q What is your position with the government?

A Federal Prohibition Investigator.

Q Were you working in the vicinity of Bay St. Louis or Ansley during March of 1931?

A I was.

Q In the course of your investigation, did you have occasion, or did you seize a railroad car?

A I did.

Q Do you remember the number of that car?

A Yes sir.

Q Will you give it to me please? A 13,924.

Q What was the date of the seizure?

A March 2, 1931.

Q And where? A Ansley, Miss.

Q And the initials of the car? A L&N.

Q And what was in that car? A Whiskey.

Q How much whiskey?

A 3,000 cases containing 12 pints each to a case.

Q What were the labels?

A Glenmore and Old Tucker.

Q And was there anything else in the car but whiskey?

A Yes sir.

Q What was in there besides whiskey?

A Lumber and saw dust.

Q What was done with the contents of this car?

A The lumber was unloaded and the whiskey was destroyed, samples retained as evidence.

Q Did you bring any samples of that whiskey here?

A Yes sir.

Q Will you produce it?

A The samples were placed in the custody of the Chemist at the Custom House. If they are here I don't know it.

Q I thought you said you did bring them?

A I brought them from Ansley, Miss. to the Custom House.

Q And the samples were turned over to the Chemist and the rest of it destroyed?

A Yes sir.

BY THE COURT:

Q You examined the contents of some of those cases, and you know it was whiskey?

A Yes sir.

MR. SLADE:

Your Honor's ruling as to testimony of similar character stands as not binding on any of those defendants except the specific ones he may be directly connected with?

THE COURT:

Yes, only binding on the ones the evidence shows had something to do with it; until the evidence is all in and the conspiracy made out, and the shipping of this liquor was in furtherance of the object of the conspiracy, then all members of the conspiracy are bound by it.

OBJECTION: MR. SLADE:

Let the record show the same character of objection is urged.

OBJECTION: MR. WAGUESPACK:

I object to this testimony on another ground, on the ground that the Indictment itself shows that offense with regard to intoxicating liquors in this form, on or about October 28, 1929 - I won't read all of that, but here is what is charged - "to unlawfully import and bring into the United States from a place foreign to the United States large quantities of intoxicating liquors containing more than one half of one per centum of alcohol by volume." Unless the Indictment shows that the liquor was more than 3.2 percent, it is not intoxicating, because Congress -

THE COURT: I overrule your objection.

MR. WAGUESPACK: I reserve a bill.

BY THE COURT:

Q It was beverage commonly known as whiskey in those packages?

A Yes sir.

CROSS EXAMINATION:

BY MR. SLADE:

Q How many cases? A 3,000 cases.

Q Do you know how much a case weighs?

A No sir.

Q Have you any idea; don't you know as a fact what that would weigh? A I can't say.

Q What is the capacity in weight of any one of those cars? A I can't say.

Q You don't know that? A No sir.

Q You did not take the trouble to find out?

A No sir.

Q Do you know how much the lumber weighed in there?

A No sir.

Q Don't you know as a fact that 3,000 cases plus the lumber, could not possibly be in a car like that, because the car cannot stand the weight?

A It was in the car.

Q I am asking you don't you know as a fact; you saw it?

A I did.

Q You saw everything else in there and the lumber?

A I did.

Q But you haven't any idea what the weight is?

A I have not.

Q You do not know what weight that car would carry?

A I do not.

Q You did not take the trouble to find out?

A I did not.

BY MR. WOODCOCK:

Q Regardless of the weight, you do know there were 3,000 cases of liquor in there; you testify to that as a fact?

A Yes sir.

Q And some lumber?

A Yes sir.

Q I want you to repeat again -

MR. SLADE: I think a lot of time is being wasted -

THE COURT: Overruled.

BY MR. WOODCOCK:

Q.  
(Counsel continuing) -- what were the labels on the whiskey?

A Glenmore and Old Tucker.

Q Are those the only two?

A Yes sir.

Q In what form was the liquor, what was the size of the bottles?

A Pint Bottles.

Q How many pint bottles to a sack or case?

A Twelve pints.

Q To a sack or case?

A To a sack.

BY THE COURT:

Q When you refer to case, you mean it was in sacks?

A Of 12 pints each, yes sir.

BY MR. WOODCOCK:



Q And there were 3,000 sacks each containing 12 pints?

A Yes sir.

Q And how was it divided as between this Glenmore and Old Tucker, if you know?

A On one side of the car was the Glenmore and the other side Old Tucker.

Q What were the relative amounts, if you know?

A I can't state positively. It appeared to be half and half.

CROSS EXAMINATION:

BY MR. HOLLINS:

Q You say there were 3,000 sacks or 3,000 cases?

A 3,000 sacks or cases, whatever you might call them.

Q There were only 1500 cases?

A There were 3,000 sacks.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Cases are board boxes. Were they sacks containing 12 pints each?

A Yes sir.

- - - - -

MR. WOODCOCK:

Before the other witness comes in, Your Honor, I direct your attention to Government Exhibit-1, which is the yellow sheet Your Honor admitted of those characters, and the part I want to draw Your Honor's attention to,

that when this was admitted I did not assume the writing of somebody else formed part of that exhibit.

THE COURT:

I will let it go until you offer your evidence. That paper is in and ruled on, but I will hear you on a motion to exclude it later on.

MR. SLADE:

Not the paper; just the writing of somebody else?

THE COURT:

There is an orderly way in which to take those up.

MR. SLADE: I cannot get the book -

THE COURT:

I will give you opportunity to see it.

OBJECTION: MR. WALLAGE:

I want to exclude the testimony of Mr. Dunphy as to all the defendants excepting the persons as having had to do with the handling of the lumber down there.

THE COURT:

I think by now the jury understands the rules about this evidence going in as only affecting one or two defendants, only evidence against such defendants unless the conspiracy is made out against others, and then the act of one would be the act of all and will be binding on all.

- - - - -

DAVE J. ORR: Witness, being duly sworn and examined  
on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Dave J. Orr.

Q Mr. Orr, you are a Federal Prohibition Agent?

A Yes sir.

Q And were you in this vicinity in the winter of 1931?

A I was in Indiana.

Q Have you any recollection of seizing a freight car  
loaded with intoxicating liquors?

A Yes sir.

Q Where did you seize it?

A In Evansville, Ind.

Q At what time? A March 3, 1931.

Q And have you the car number of that liquor?

A Yes sir, 13,884, L&N box car.

Q How much liquor was in there?

A 1182 bags, 12 pints to the bag.

Q What was the kind of label?

A Labelled Old Dixie and Old Tucker.

Q What was done with the liquor?

A Taken to Indianapolis and transferred to our Federal  
Court.

Q Did you bring a sample of it here? A Yes sir.

OBJECTION: MR. WAGUESPACK:

I renew my objection to all this testimony, on the ground that the Indictment itself alleges above one-half of one percent by volume, instead of alleging above 3.2 percent under the new law.

THE COURT:

The new law has nothing whatever to do with this case. Overrule your objection.

MR. WAGUESPACK: I reserve a bill.

BY MR. WOODCOCK:

Q Is that a sample of the contents of that car? (Indicating)

A Yes sir.

OFFER: MR. WOODCOCK: I offer that in evidence.

OBJECTION: MR. GEX:

I object insofar as the defendants I represent are concerned, on the ground it is incompetent and immaterial, not binding, no foundation having been laid for it.

THE COURT:

Does the car number he gave correspond with the bill-of-lading and show it was shipped from this point?

MR. WOODCOCK: Yes, Your Honor.

THE COURT: Objection overruled.

MR. SLADE: Exception.

MR. GRACE:

I understand the ruling applies to all defendants?

THE COURT: Yes.

BY MR. WOODCOCK:

Q What other brand was there besides Old Dixie?

A Old Tucker.

Q About evenly divided? A Yes sir.

Q And the seizure was March 3rd?

A 1931, yes sir.

- - - - -

MR. WOODCOCK:

I want to recall Mr. Yarborough to the stand, Your Honor.

THE COURT: All right.

MR. JOSEPH J. YARBOROUGH: RECALLED:

BY MR. WOODCOCK:

Q I show you another document and ask if you know what that is? A Yes sir, bill-of-lading.

Q Issued when?

A I wrote it out myself, yes sir.

Q That was not in the group of bills-of-lading that Mr. Cutter produced here? A No sir.

Q Can you say the reason?

A Yes. This was for the last car that was seized at Ansley. That car never went forward, so naturally the conductor's waybill was made and not forwarded to him at that time.

Q And that was one of the cars shipped by Jones and  
Buckley? A Yes sir.

MR. WALLACE: Order of which one?

MR. WOODCOCK:

The testimony shows that they were acting in conjunction, and I offer this document in evidence as Government Exhibit-43.

OBJECTION: MR. WALLACE:

We object unless it is specified which one ordered the car.

BY THE COURT:

Q That was one bill-of-lading issued in pursuance with the arrangement you had with these men?

A It is signed by J. Jones.

BY MR. WOODCOCK:

Q Answer the Court's question?

A Yes sir, it was.

Q Was this last car sent out?

A That was the last car sent out at Ansley.

Q And you know this car was seized?

A Yes sir.

Q And that is why the bill-of-lading was not forwarded to headquarters? A Yes sir.

CROSS EXAMINATION:

BY MR. WALLACE:

Q Mr. Yarborough, you do not know where those cars were loaded on the Western Line, do you?

A No sir.

Q And all you know is they were delivered to the Western switch at Ansley? A Yes sir.

Q Whether they were loaded on that line you do not know anything about? A No, I don't know.

- - - - -

MR. WOODCOCK:

I would like to call Louis Saucier. I beg Your Honor's pardon. This witness happens to have died.

- - - - -

J. E. CARBONETTE: Witness, being duly sworn and examined on behalf of government testified as follows:

BY MR. WOODCOCK: DIRECT EXAMINATION:

Q Please state your name? A J. E. Carbonette.

Q Mr. Carbonette, what is your occupation?

A Engineer.

Q What railroad? A Railroad engineer.

Q For what railroad company?

A Weston Lumber Co.

Q Do you remember delivering, hauling some cars from the pecan farm in the winter of 1931, and delivering them to the L&N at Ansley? A I do.

Q Have you any record of the numbers of those cars?

A No sir, I haven't got none of them with me, but they

ought to have them.

Q Did you make a record?

A Yes sir, we made a record of every one of them.

Q I show you these papers called the Miss-Western Railroad Co. Is that the name of your railroad?

A Yes sir.

Q Did you make those out?

A No sir. My brakeman made them out.

Q Do you know if they are correct?

A They are correct all right. I always went over them.

Q Your statement is that your brakeman made them out?

A Yes sir.

Q And you checked them over? A Yes sir.

Q And you know they are correct?

A I know they are right.

Q And for what period of time are they; what time of the year was it? A About 1932.

Q Does it show the date?

A Yes, they ought to.

OFFER: MR. WOODCOCK:

I offer these documents in evidence.

BY THE COURT:

Q Do they give the numbers of the car?

A Yes sir.

MR. WOODCOCK: They correspond to the bill-of-lading.



CROSS EXAMINATION:

BY MR. SLADE:

Q None of these are in your handwriting?

A No sir, none of these.

Q You cannot read and write? A Yes sir.

Q You cannot read this writing, can you?

A Yes sir.

Q Can you read this writing?

A Sure. I reckon I ought to do it. That is JEC on there.

Q Yes, but you can't tell from this paper, identify anything can you, except certain figures on there?

A I could if I had my glasses. I can't see them now.

BY MR. WOODCOCK:

Q Have you got your glasses with you?

A No sir, I haven't.

Q See if you can use these? (Hands glasses to witness)

BY MR. SLADE:

Q Try these? (Hands glasses to witness)

A I can see with these, yes.

Q The question I am asking now, these figures in this do not give you any information, do they?

A The number of the car, and this here figure is the number of the car, (indicating), and that is the name of the road, L&N. (Indicating)

BY THE COURT:

Q As I understand, your brakeman made those out at the time you handled those cars, and you checked them with the car and know they are correct?

A Yes sir.

OBJECTION: MR. SLADE:

Same objection, not binding, hearsay, irrelevant and immaterial, no foundation having been laid for its admission.

- - - - -

J. P. USHER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A J. P. Usher.

Q Mr. Usher, what is your position now?

A Agent and operator.

Q On what railroad? A L&N Railroad.

Q What were you doing in the winter of 1931?

A Night operator, Lake Shore, Miss.

Q Do you remember some box cars of lumber coming into Ansley from the logging railroad at that time?

A Yes sir.

Q How did you happen to see them or know about them?

A Well, during the month of February that year, a gentleman came up there for the agent to bill out the car

of lumber and the agent was not there.

Q Where to?

A To Lake Shore, and I asked if there was anything I could do for him, and he said yes, and I asked him what it was, and he said <sup>he</sup> wanted to bill a car of lumber out of Ansley. I told him I had been agent out of Ansley over two years, and I would bill the car of lumber out for him if he wished. He told me all right and I got the bill of lading and billed the car out for him.

Q Whose name did you sign to the bill of lading?

A I signed the agent's name per my name.

Q Would you recognize it if you saw it?

A Yes sir.

Q (Counsel hands witness document and witness examines same)

A That is mine.

OFFER: MR. WOODCOCK:

That is one offered in evidence with the others.

Q Do you know to whom you talked about this car?

A I didn't talk to anybody but the agent.

Q Who asked you to bill it out?

A The gentleman stepped in the office. I didn't know who he was. He said his name was J. J. Jones.

Q Did you get a good look at him?

A Not very well, but I looked at him.

Q What time of day was it?

A Eight o'clock in the morning.

Q Broad daylight, wasn't it? A Yes sir.

THE COURT:

Let the witness as near as he can describe the man he had the interview with.

BY MR. WOODCOCK:

Q What kind of a man was he?

A Chocky built, some five feet six or five feet five, say 160 or 170 pounds.

Q How old a man was he?

A He is somewhere around 38.

BY THE COURT:

Q Do you know whether he was wearing glasses at that time or not? A No sir, he was not.

BY MR. WOODCOCK:

Q He was not wearing glasses? A No sir.

Q Now come over here and look at this gentleman here, (indicating) and say whether you ever had any dealings with him?

A No sir, not that I know.

Q Now, are you sure of that? A Positive.

MR. SLADE:

Let the record show he is referring to the defendant Joseph O'Neal.

BY THE COURT:

Q To your best judgment, that is not the man you had the conversation with that morning that gave the name of Jones?

A No sir.

BY MR. WOODCOCK:

Q I will ask you if you ever saw this gentleman here before. (Indicating)

A I don't recall.

Q You would not recall that either?

A No sir.

MR. SLADE: NO CROSS EXAMINATION:

MR. WOODCOCK:

Let the record show that the witness' last answer referred to the man pointed out and pleaded here as Merchant O'Neal.

THE COURT: Let the record show that.

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MR. WOODCOCK:

If the Court will permit, I want to recall Mr. Dunphy.

MR. R. N. DUNPHY: RECALLED:

BY MR. WOODCOCK:

Q Mr. Dunphy, have you now brought the samples of the car L&N 13,924 that you seized at Ansley?

A I have.

Q Will you produce them?

OBJECTION: MR. WAGUESPACK:

I want to make a general objection. I do not want to get up all the time to make objections. I understand this objection will apply to all future testimony?

THE COURT:

Yes, you may have an objection to all the samples.

BY MR. WOODCOCK:

Q Those are two of the bags that were in that car?

A Yes sir.

Q Are they the same kind?

A They are different.

Q Will you take out a bottle?

A (Witness does as requested) This is a pint bottle contained in sack containing 12 pints of Glenmore. I identify this bottle by the label, and my initials placed on it when I seized it.

OFFER: MR. WOODCOCK:

I offer that bottle and sack from which it came in evidence.

Q Will you describe this bottle? (Counsel hands witness bottle and witness examines same)

A This is a pint bottle labelled Old Tucker taken from the sack containing 12 pints of Old Tucker whiskey identified by the label which I placed on it and my initials.

Q And these other bottles are just the same?

A They are. I identify those by the tag on the outside which I placed on them when I took them from the box car.

OFFER: MR. WOODCOCK: We offer the whole thing.

OBJECTION: MR. SLADE:

We offer the same objection on the same grounds that I urged to all of the testimony that these gentlemen gave in previous testimony.

THE COURT: Overruled.

MR. SLADE: Exception.

MR. GRACE:

And the exception applies to all objections heretofore urged?

THE COURT: Yes.

MR. HOLLINS:

And the objections and exceptions apply to all of the defendants?

THE COURT:

Yes, subject to the limitation it would only be evidence as against the ones connected with the transportation of that liquor, unless the conspiracy is made out in furtherance of the object named in the conspiracy, then it becomes evidence against all who are members of the conspiracy.

MR. GRACE:

All objections we make are to apply on behalf of all defendants.

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MISS ALCIDA LADNER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Miss Alcida Ladner.

Q What is your position, Miss Ladner?

A Manager of the Southern Bell Telephone Co., at Bay St. Louis, Miss.

Q Were you in such position in the winter of 1931?

A Yes sir, I was.

Q Now I want to ask you if you could recognize Government Exhibit-40? (Counsel hands witness document and witness examines same)

A These copies were not made by my office. They were probably made by the Gulfport office.

Q So you do not recognize those?

A No sir. That is kept in the Gulfport office. I send all reports there.

Q Could you tell me what the telephone number of the Hotel Weston is at Bay St. Louis?

A (Witness refers to documents) 433.

MR. WOODCOCK:



I call the attention of the Court that is the number on the exhibit.

OBJECTION: MR. SLADE:

I object to that so far as this witness is concerned.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Tell me whose telephone number 237 is in Bay St. Louis, if you know? A At what time?

Q In January and February and March of 1931?

A That is pretty hard to remember that length of time.

Q I thought you were asked to bring your records?

A I have them alphabetically, not numerically.

Q Can you, by looking at that booklet, tell whose number that is?

A If I go through the entire book.

Q With the Court's permission I will ask you to step down and look that up, also if you will be able to tell us who 2003 is? A All right, Sir.

(Witness leaves witness stand)

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M. T. HOLDEN: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A M. T. Holden.

Q Mr. Holden, will you tell the Court and jury where you live? A Yes sir. I live at Kiln, Miss.

Q Now as you go up the Jordan River from Bay St. Louis, do you live on the right side or left side of that river?

A I live on the south side of that river.

Q Of the Jordan River?

A Jordan River, yes sir.

Q There is a boat landing there, isn't there?

A There is a place where you can land the boat.

Q Now about how far from your house is that boat landing, or the place where the boat can tie up along the bank?

A It is about seven or eight hundred feet.

Q Is there some kind of a road or trail by your house down to that place?

A Yes sir, pass out from the side of my house and go to that landing and continue, the road does, on along for a quarter of a mile; used to be an old public road.

Q What is your occupation?

A At this time?

Q Yes. A I haven't any, not now.

Q What was it in the winter of 1931?

A Had the school contract hauling children.

Q You know the defendant Leander Necaise?

A Yes sir.

Q Would you mind pointing him out?

A Yes, he is sitting right here in the front, (Indicating)

Q Which one?

MR. WOODCOCK:

(To defendant) Stand up? (Defendant stands up) That is him.

Q Did you have any talk with him regarding that road from your house down to the boat?

A He came to my house one day and he asked me how would I like to have my road fixed, that I was driving the school truck in and out twice a day. He was a candidate for the Board of Supervisors at that time, and he says: "I am going to fix your road," and then he asked me: "How about unloading some stuff down on the river?"

Q Well, stuff; what did you understand he meant by stuff?

OBJECTION: MR. SLADE:

I object to what he understood, what he said.

THE COURT: I sustain the objection.

BY MR. WOODCOCK:

Q Was that the word he used? A Yes sir.

Q Unload some stuff?

A Yes sir, unload some stuff, and he said: "Well, we want to unload some stuff down there," and went on with some more words, and I asked him then when did he think he

was going to do that, unload some stuff, and he said: "Well, I can't tell, maybe tonight, maybe tomorrow, or tomorrow night, when we will do it." I told him it must be whiskey, and he said: "I don't know, it might be alcohol." He gave me some kind of a short answer like that. I taken it for a short answer and didn't ask him any more about it, so I told him I didn't want to have anything to do with that at all. He told me, he said: "We don't want you to have anything to do with it, all we want you to do is stay in the house."

Q Did he ever give you any money about that time?

A Not until they had come in there, no sir.

Q What did he give you after they had come in there?

BY THE COURT:

Q When you speak of they came in there, what do you refer to, after he came in there?

A After they came in there the night they worked there.

BY MR. WOODCOCK:

Q What did you see that night going on?

A Saw cars and trucks passing my house going to the landing.

Q You live in rather a lonesome part of the country?

A Sir?

Q There are no houses very close to your place, are there?

A No sir, not very close.

Q Who is the nearest house?

A Well, down there was a colored lady named Myrtle Harvey lived there at that time.

Q How close was her house to yours?

A I guess about 600 feet or 800 feet from my place.

Q Is there a grove of trees all around there?

A Yes sir.

Q Cutover stuff?

A No sir. It is kind of heavy piece of land.

Q What is that?

A Oak trees, sweet gum, hickory, palm trees.

Q No open farms?

A No, only what I open around my own place to plant.

Q And that is just a small patch?

A Yes sir, about an acre and a half.

Q How far is this from the main stone highway?

A About a mile and a little more; ain't a mile and a quarter.

Q Any house between yours and the highway?

A No sir.

Q You observed some trucks and automobiles going down to your landing?

A To that landing, yes sir, but not to my landing.

Q Not yours, but yours is the nearest house to it?

A Yes sir.

Q Not even on your land, as I understand it?

A No sir.

Q How many nights did you observe that?

A Well, about five.

Q Five different occasions?

A About five different occasions.

Q When did it start, when was the first of these landings?

A Sometime in January.

Q And how long did it continue?

A I really just don't know how long it continued, but somewhere up along the last of February.

Q On five different occasions? A Yes sir.

Q Did you see the boat? A No sir.

Q Did you hear it? A I heard it.

Q You did not go out to see what was going on?

A No sir.

Q You told Mr. Necaise you did not want to have anything to do with it?

A Yes sir, and he told me he did not want me to have anything to do with it.

Q After it was all over, state whether or not Mr. Necaise paid you any money? A Sir?

Q After it was all over, state whether or not Mr. Necaise paid you any money? A Yes sir.

Q How much?

A He gave me money the first time they worked there and a day or two after that I saw him, and he gave me \$5.00, and on the second occasion the same thing, gave me \$5.00 four times, and the last time he gave me \$10.00.

Q What did he say to you when he gave you the \$10.00?

A He told me that - when he told me he said: "We will pay you; all we want you to do is to stay in your house and keep your mouth shut and not see anything."

Q Stay in your house and keep your mouth shut, and not see anything?

A Not see anything.

Q And what did he say when he gave you the \$5.00?

A He just pulled out \$5.00 and gave it to me.

Q And how many times did he give you the \$5.00?

A He gave me \$5.00 four times, and \$10.00 one time.

Q And it was when he gave you the \$10.00 -

OBJECTION: MR. SLADE:

I object to that as leading.

THE COURT: Yes, that is leading.

BY MR. WOODCOCK:

Q What did he say when he gave you the \$10.00?

A I don't remember just exactly what he did say.

Q Did you say a moment ago what he did say?

A Sir?

Q I thought you said something a moment ago about what Mr. Necaise said to you. Was that remark made when he

gave you the \$10.00 or the \$5.00?

OBJECTION: MR. SLADE:

He gave no testimony about the \$5.00.

BY THE COURT:

Q Do you remember anything else he said to you, that you may have been told?

A Yes sir. I told him I didn't want to have anything to do with it, and he told me he didn't want me to have anything to do with it, all I have to do is stay in the house and keep my mouth shut. He told me I would not be bothered, that everything was all right, and that the law was practically on his side, and not be scared of anybody telling me anything or getting me in trouble.

BY MR. WOODCOCK:

Q He said the law was practically on his side?

A The law was practically on his side, and not be scared.

Q What position did he hold in the community at that time?

A He was a deputy sheriff.

Q Now did you see any persons other than Leander Necaise in connection with this landing of the stuff?

A I saw Leander Necaise, Henry Dandridge.

Q Henry Dandridge, is he here; go over there and pick him out?

A That is him. (Indicating)

Q What did you see him doing?

A I saw him carrying a lantern around there.



Q When?

A On one of the nights that the cars and trucks came in there, that I heard the boats.

Q You are sure you saw him and recognized him?

MR. WALLIS: Please do not lead him.

A Yes sir.

Q Did you see anybody else besides Henry Dandridge?

A Yes sir. I saw Sam Dandridge. That's him. (Indicating)

Q What did you see Sam Dandridge do?

A I didn't see him do anything.

Q Where did you see him?

A I saw him passing the house and going down towards the landing.

Q What time of night?

A About, sometime just before midnight, 10 or 11 o'clock.

Q The time the trucks and automobiles were there?

OBJECTION: MR. SLADE:

I object to that as leading.

THE COURT:

Overruled. I do not think that is leading.

MR. SLADE: Exception.

A When the cars or trucks came in that light, I could see people in front of the light, and I did not stay right in my house just like a bird in a cage anyway.

Q Now did you see anybody else down there?

A Yes sir.

Q Who were they? A Jim Dantzler, a colored man.

Q Is he here? A That's him. (Indicating)

Q Will you state when you saw him down there?

A Each occasion at night when they be working there.

Q He would be working there?

OBJECTION: MR. WALLACE:

No, when they were working there.

THE COURT:

That is what he said, when they would be working there.

BY MR. WOODCOCK:

Q Anyone else? A Yes sir, Laverne Baker.

Q He is a witness in the case. Have you see him around here?

A Yes sir.

Q May I ask whether or not you saw either of the Malini brothers?

A Yes sir, I saw Tom Malini.

Q Do you know him when you see him?

A Yes sir.

Q Is he here?

A Yes, he is here. That's all right, I see him there.  
(Indicating)

Q Is that Tom Malini? (Indicating) A Yes sir.

Q What did you see Tom Malini doing?

A I didn't see him do anything.

Q Where was it you saw him?

A On some of the nights. You only want me to tell you about the times they were doing this?

Q Certainly.

A He would be there on the road, or around the trucks, or some of the cars.

BY THE COURT:

Q Did you see him there more than one night?

A Yes sir.

BY MR. WOODCOCK:

Q How many times do you remember seeing him?

A Every night they did anything down there.

Q Did you ever see a man called Charles Martin down there?

A Yes sir.

Q Is he here? A Right there. (Indicating)

Q Is that Charles Martin? A Yes sir.

Q What did you see him do?

A Just like the others.

Q On more than one occasion?

A Yes sir - well, I don't remember now of seeing him but a couple of times.

Q How about Blaine Lee? A I saw him.

Q Is he here? A Yes sir. (Indicating)

Q Is that Blaine Lee? (Indicating)

A Yes sir.

Q How many times did you see him down there?

A I don't know just how many times I seen him down there.

Q You are sure you saw him though?

A I am sure I saw him there.

Q Will you state whether you had any conversation with Mr. Leander Necaise about any other landing of liquor in that vicinity?

OBJECTION: MR. SLADE:

I object to landing of liquor. There is no evidence yet there has been any landing of liquor.

MR. WOODCOCK:

I think there is an abundance of it.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Did you ever have any talk with Mr. Necaise of any landing of liquor in that vicinity, but not right at your landing, whether there had been any other landing.

A Yes sir. He said they had landed boats down there at the Kiln, or warehouse.

Q Is that on the same side of the river?

A No sir, opposite side from me.

Q That is Kiln?

A Yes sir.

Q What is that, a lumber kiln?

A It was a big mill put there, and a postoffice there by

the name of Kiln.

Q There is a lumber kiln there?

A No sir, that is Kiln, Miss. It was the Kiln Mercantile warehouse.

Q When did he tell you about this landing over at Kiln?

A At the time I first talked to him, he said he was going to unload that stuff down there.

Q Have you had any talks with Mr. Necaise recently about this thing?

A You mean just a week or two ago?

Q Yes; a month or two ago, or anytime?

A Yes, on one occasion I did. He told me he wanted to talk to me, and asked me what kind of statement did I give Special Agent Woods?

Q You had given Mr. Woods a statement, had you?

A Yes sir.

Q And Necaise asked you -

A He wanted to know what I had given.

Q What did you say to that?

A I really don't hardly know what I did say; I just was around and about in a way. I never told him exactly what I did say.

Q What did he say?

A He said he wanted to know so he could advise his lawyers, so he would know what to do.

CROSS EXAMINATION:

BY MR. WALLACE:

Q I understand you to say that you were paid to stay in the house?

MR. WOODCOCK: That is not what he said.

MR. WALLACE:

I am trying to find out. He is under cross examination.

A He said all he wanted me to do was to stay in the house, see nothing, say nothing.

Q You said you would?

A I never told him I would.

Q You took his \$5.00? A Yes sir.

Q Then you went out to see what was passing by?

A No sir, I never went out to see what was passing by.

Q But you happened to see these boys?

A I have a window in my house.

Q And you were looking out?

A And another occasion I be in the yard, and another occasion during this time, I was down to see my brother who was sick with pneumonia.

Q That was all during the night? A Yes sir.

Q You heard boats? A Yes sir.

Q Do you know whether the motor stopped?

A No sir.

Q You never went to the landing?

A No sir.

Q Do you know if the boat had any liquor on it at all?

A No sir.

Q Do you know whether they were unloading any liquor at all?

A No sir. I don't know what they were doing.

Q The Malini boys have to pass there to go to their home; they live opposite your home?

MR. WOODCOCK: Which side of the place?

MR. WALLACE: The Malinis I am talking about.

MR. WOODCOCK:

I am entitled to ask which side of the place.

BY MR. WALLACE:

Q They live beyond your place and have to go by your place to go home?

A They come to my house and turn to the right to go home, but this road goes to the river, does not turn that way, because they go straight on.

Q When you saw the young Dandridge boy you did not see him doing anything?

A No sir.

Q You did not see him unloading or handling any liquor?

A No sir.

Q Did you see any of those boys handling or loading any liquor?

A No sir.

Q You do not know where those trucks came from; they were

not local trucks?

A No sir, not that I know of; I didn't know the trucks.

Q They came from other places and you don't know who brought the boat up there, or if any liquor on it, do you?

A No sir.

Q You didn't know anything about that?

A No sir.

Q In fact you do not know anything about anybody unloading liquor at that place?

A (No answer)

Q I mean of your own knowledge?

A I didn't see it but I heard the boat come there.

Q But you did not see any liquor unloaded?

A No sir.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q But you know what Mr. Necaise told you?

A Yes sir.

- - - - -

LAVERNE BAKER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Laverne Baker.

Q Mr. Baker, you live down in the Kiln neighborhood?

A No sir.



Q Where do you live? A Picayune.  
Q How far is Picayune from Kiln?  
A About 23 miles.  
Q Picayune is what direction from Kiln?  
A It is west, I believe.  
Q West or northwest; you live over at Picayune?  
A Yes sir.  
Q Do you know the defendant, Leander Necaise?  
A Yes sir.  
Q Will you point him out? A (Witness indicating)  
Q That is he? (Indicating) A Yes sir.  
Q Did you ever have any conversation with Mr. Necaise  
about the loading or the unloading of liquor?  
A Yes sir.  
Q I want you to tell the jury about that?  
A I don't remember just how it was now.

BY THE COURT:

Q Give your best recollection about what was said?  
A He just asked me if I wanted a job down there, and I  
told him yes.

BY MR. WOODCOCK:

Q After this talk with Mr. Necaise, did you work for him?  
A Yes sir.  
Q And did he pay you? A I think he did.  
Q Well, you know whether he paid you or not?

A Sometimes he did, yes.

Q What did he pay you sometimes?

A Well, we got \$5.00 some nights and \$10.00 on some nights.

Q And what were you doing on the nights you got \$5.00 or \$10.00?

A Unloading liquor.

Q And where did you unload it?

A At Mose Holden's landing.

Q That was the gentleman that was just in here?

A Yes sir.

Q What was the name of the boat? A Nonpareil.

Q And how many times was she up there?

A I don't remember that.

Q Well, you know how many times you helped unload her?

A No, I don't .

Q Was it more than twice? A I think so.

Q More than five times?

A I don't know whether it was or not.

Q Well, was it three times?

A I don't remember how many times.

Q Well, it was not over five, was it?

OBJECTION: MR. GEX:

He says he doesn't know. Do not lead him.

THE COURT:

He says he helped to unload two times or more.

BY MR. WOODCOCK:

Q What time of night would you do this, Mr. Baker?

A I imagine about eight or nine o'clock.

Q Did it take sometime to do it?

A Oh, a couple of hours, I imagine.

Q And what would be your part in the work, what did you actually do?

A I helped to unload it.

Q You mean you carried something from the boat to some place else?

A Yes sir.

Q And where did you carry it?

A We passed it to each other on to the truck.

Q The truck would be near the landing?

A Yes sir.

Q As near as you could get it?

A Yes sir.

Q How many trucks would there be down there?

A Oh, two or three I reckon.

Q Now, who was the boss of the job?

A I don't know.

Q Well, who told you what to do?

A Well, Leander told me sometimes.

Q Whom do you mean by Leander?

A Necaise.

Q He told you sometimes?

A Yes sir.

Q Would he always be down there when you were there?

A Not always.

Q He was there sometimes when you were there?

A Yes sir.

Q He was the one who always paid you, wasn't he?

A No sir.

Q Who else paid you?

A I don't know who he was.

Q Somebody paid you some money and you do not know who it was?

A No sir.

BY THE COURT:

Q The liquor that you helped unload off the boat and pass to the truck, what kind of packages was it put in?

A It was put all in sacks.

BY MR. WOODCOCK:

Q Sacks something like that, G-48? (Indicating)

A Yes sir.

Q You handled one of those sacks -

A Yes sir.

Q You passed it on to some one else?

A Yes sir.

Q Sort of endless chain, was it?

A Yes sir.

Q How many working around there?

A I don't remember just how many working around there.

Q Who else did you see there?

A He was Chester Travirca.

Q Is he here?

A Yes sir.

MR. WALLACE: He is not indicted, is he?

BY MR. WOODCOCK:

Q Can you think of anyone else you saw?

A I saw Blaine Lee.

Q Let's see who Blaine Lee is; is that the man? (Indicating)

A That is him.

Q Anyone else?

A Ilos Parker.

Q Is he over there? (Indicating) A Yes sir.

Q You saw him there?

A Yes sir, I saw him there.

Q Who else?

A Henry Dandridge.

Q Is he over there? (Indicating) A Yes sir.

Q You saw Mr. Dandridge there, did you?

A Yes sir.

Q Anyone else?

A That is all I can think of right now.

Q I will ask you whether or not you saw Charles Martin there?

A Yes, I think I did.

Q Is he over there; is that the man? (Indicating)

A Yes.

Q I will ask you whether you saw John Knight there?

A John Knight?

Q Do you know John Knight?

A Yes, I believe I do.

Q Did you see him there?

A I don't remember about seeing him there.

Q Well, do you see anyone else over there whom you saw there that night, whom you have not named, on any of those nights?

A (No answer)

Q I will ask you whether or not you saw Alfred Jackson?

A Yes, I saw him.

Q You saw him there? A Yes sir.

Q Do you know Mr. Tom Malini? A Yes sir.

MR. WOODCOCK:

Will you stand up, Mr. Malini? (Defendant stands up)

Q Is that the man you saw there? A Yes sir.

MR. WOODCOCK:

Mr. Philip Malini stand up? (Defendant stands up)

Q Was he there? A Yes sir.

Q Do you know where the pecan farm is?

A Yes sir.

Q Were you ever up there on one of these trucks?

A I gave that on the statement, but I can't remember being up there.

Q You gave it on your statement. What do you mean by that?

A I noticed it awhile ago, but I can't recollect that time.

Q You mean you told somebody you were up there, but you do not remember whether that is true or not?

A I don't remember that.

Q Who was it you told that to?

OBJECTION: MR. GEX:

Objected to as not competent.

THE COURT: Sustain the objection.

BY MR. WOODCOCK:

Q You do not know whether you were up there or not?

A I been up there, but I mean on this occasion.

Q Well, while you were working around there, did you know where the trucks were going?

A No sir.

Q You did not ask anybody?

A No sir.

OBJECTION: MR. GEX:

We object. He said he did not know.

THE COURT: If he asked one of these defendants?

MR. WOODCOCK: They were all there, Your Honor.

Q You had no curiosity where the trucks were going?

THE COURT: He says he doesn't know.

BY THE COURT:

Q All these parties you mentioned there on the nights the whiskey was being unloaded, all participated in helping to unload it from the boat to the trucks?

A Yes sir.

CROSS EXAMINATION:

BY MR. GEX:

Q Did you know any of those fellows from New Orleans, Joe O'Neal, Merchant O'Neal, Mr. Morrison, or Mr. Nate Goldberg?

A No sir.

Q Those boys in Mississippi, whose names you mentioned,

they were hired like you, just to unload a boat?

A Yes sir.

Q Do you know where that liquor was going?

A No sir.

Q Do you know where it came from? A No sir.

Q All this was in Hancock County, Miss.?

A Yes sir.

Q That is on the Jordan River? A Yes sir.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Do you remember at the time the carload of liquor was seized up around Ansley? A Yes sir.

Q Do you remember any conversation with Mr. Leander Necaise after that carload was seized?

A No. I quit there then.

Q You had quit there then, I understand that, but didn't Mr. Necaise speak to you after that carload of liquor was seized?

A I don't remember whether he did or not.

Q Didn't you tell the Inspector that he did?

OBJECTION: MR. GEX: We object to that.

MR. WOODCOCK:

May it please the Court, I am taken completely by surprise on that.

BY THE COURT:



You can refresh his recollection, if you can.

MR. GEX: Note exception.

BY MR. WOODCOCK:

Q You talked with one of the Special Agents about this case?

A Yes sir.

Q Do you remember what his name was?

A Mr. Wood.

Q Don't you remember telling Mr. Wood of a conversation you had with Mr. Necaise after the box car of liquor was seized?

A I don't remember.

Q You would not say you did not have a conversation?

OBJECTION: MR. GEX: We object to that.

THE COURT: Sustained.

MR. WOODCOCK:

I am surprised by the witness, Your Honor.

RECROSS EXAMINATION:

BY MR. GEX:

Q They say they are surprised; were you paid by the Prohibition Department \$5.00 a day to stay here and give this information?

A I was paid.

Q They kept you on a salary here, didn't they?

A Yes sir.

Q For how long?

A About six months.

Q The Prohibition Department kept you on a salary so you would be here to give your testimony?

A Yes sir.

Q How much did they pay you? A \$5.00 a day.

Q \$5.00 a day for six months to testify here, that is to say -

OBJECTION: MR. WOODCOCK:

I object to that last remark. There is nobody in the service of the United States paid to testify.

THE COURT: You can examine him about it.

BY MR. WOODCOCK:

Q As a matter of fact you were specially employed to help the Special Agent to investigate this case?

OBJECTION: MR. GEX: We object.

THE COURT: Overruled.

BY MR. WOODCOCK:

Q That is why you were paid? A Yes sir.

Q And weren't you also paid because you claimed you were being threatened and intimidated?

OBJECTION: MR. GEX: We object to that.

THE COURT: Overruled.

MR. GEX: Exception.

A Yes sir.

Q Who was intimidating and threatening you?

OBJECTION: MR. GEX: If Your Honor please -

THE COURT: I sustain the objection to that.

MR. WOODCOCK:

Your Honor allowed me to ask him if the reason was he was under intimidation.

THE COURT: Yes.

- - - - -

MYRTLE HARVEY: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Myrtle Harvey.

Q Where do you live, Myrtle? A I live at Kiln.

Q Do you know Mr. Mose Holden?

A Yes sir, I knows him.

Q Did you ever live anywhere near him?

A Yes sir.

Q When was that?

A I can't exactly tell what date it was, but it was last winter, kind of in the winter.

Q How far away from his house was your house?

A About 100 yards, I reckon, a little over.

Q Now, do you know Leander Necaise?

A Yes sir, I know him.

Q Did you ever have any talk with him on the subject of putting liquor in your barn or stable?

OBJECTION: MR. GEX:

We object, first, because it is a leading question, and

second, the witness has already testified she doesn't know the man.

MR. WOODCOCK: She said she did know him.

THE COURT: She said she did know him.

BY MR. WOODCOCK:

Q Did you say you did know him?

A Yes sir, I knows him.

OBJECTION: MR. GEX: Well, on the ground it is leading.

THE COURT: Overruled.

MR. GEX: Exception.

BY MR. WOODCOCK:

Q Did you ever have any talk with Mr. Necaise, or Mr. Necaise talk with you about putting liquor in your out-house?

A Yes sir.

Q What did he say to you?

A (No answer)

Q Don't be afraid to speak up?

A He just asked me am I living over here. I told him, I said: "That's Mrs. Penrose house." I say I got the house from Mrs. Penrose, and he spoke and said: "How about putting some liquor over here," and I objected. I didn't want any over there.

Q What did you say to him? I didn't hear you.

A I said I didn't want it over there, because I was scared.

Q Now do you remember being fishing out on the Jordan River and Mr. Necaise came along; you remember that?

A Yes sir. Wasn't Mr. Necaise came along.

Q Who was it, Mr. Holden? A Yes sir.

Q What did Mr. Holden say to you?

OBJECTION: MR. GEX:

We object. He is not a defendant here.

THE COURT: Sustain the objection.

BY MR. WOODCOCK:

Q Was Mr. Necaise with Mr. Holden? A No sir.

Q All right, we will pass that over. Did you ever see any big trucks or small trucks around Mr. Holden's house at night time?

A Yes sir, I saw them around there.

Q Ever see one stuck in the mud?

A Yes sir, I saw one stuck in the mud.

Q Now was it in the summer or winter time?

A It was in the last part of the winter time.

Q That is the time you are talking about?

A Yes sir.

Q How many years ago was that?

A It ain't been - ain't been one year, I don't believe - that's all, one year - yes sir. I been living across the river just a year.

Q Do you know what year this is? A Yes sir.

Q Do you know what year this is? A Let's see -

Q What year is this, 1933 or 1932?

OBJECTION: MR. SLADE:

I do not think that is fair to suggest it.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q What year is this, 1933 or 1932?

A I don't know, Sir.

Q All right. That is all right. You do remember that Mr. Necaise talked to you about putting liquor in your house, and you declined to have it put in there; you do know that; you do know that?

A Yes sir.

Q And you do know you saw some trucks around there?

THE COURT: That is repetition.

BY MR. WOODCOCK:

Q At the time this happened you lived near Mose Holden?

A Yes sir.

Q How long since you moved away from there?

A I don't know how long it has been my own self.

Q You do not remember?

A No sir.

Q Did you move away from there that same spring?

A Yes sir, I moved away from there that same spring and went over and cooked for Mr. Locke.

Q And when this thing you are talking about took place, you were still living near Mr. Holden?

A Yes sir.

Q And you moved away from there that following spring?

A Yes sir.

Q Who owns that property?

A Mrs. Penrose in the Bay.

Q Yours is the nearest house to Holden, isn't it?

A Yes sir.

CROSS EXAMINATION:

BY MR. GEX:

Q How old are you; do you know? A Sir?

Q Do you know how old you are? A Yes sir.

Q How old are you? A Forty-nine.

Q What State do you live in?

A What State I live in now?

Q Yes. A Hancock County.

Q That is the State you live in; how long have you lived in that State?

A I been there over in Hancock County seven years.

Q You worked for a man named Locke? A Yes sir.

Q Mr. Necaize was the sheriff who arrested him for selling liquor? You remember that time he seized all that liquor in his house?

A I was not there then, I was off. It was on Sunday.

Q But you were working for them?

A Yes sir, but I was off at that time. I was done through

my work and gone home.

Q Before that time you told the Prohibition Agent then that Mr. Necaise never talked to you about liquor, but after Mr. Locke was seized there for having liquor, you told him Mr. Necaise asked you to let him put liquor in your house?

A That's the only time I talked to him, when I was at Mr. Lockes.

Q You are working for Mr. Locke now? A No sir.

Q All you know Mr. Necaise ever had to do with any liquor there is one day he came to you about the time they were unloading that stuff there and asked you if you would rent him a room to put the liquor in?

A He just said he wanted to leave some liquor there.

Q That is all he said to you, and you told him you would not do it? A Yes sir.

Q You did not know anything else about him handling liquor? A No sir.

Q Did you ever see him handling any liquor?

A No sir, I ain't never seen him handle any liquor.

Q Then all you do know about Mr. Necaise is he asked you to let him put some liquor in your place?

A That is all.

THE COURT:

That is all she testified to, and she has repeated that several times.



BY MR. GEX:

Q What year was that? A I don't know the year.

MR. WOODCOCK:

She said she did not know and does not know what year this is.

MR. SLADE:

This is cross examination, and I do not think it is proper -

THE COURT:

I donot see where the cross examination is getting us anywhere. The witness has testified that one time she had a conversation with the defendant, and he asked to leave liquor there, and she told him he could not do it, and that is all she has testified to on cross examination.

MR. SLADE: We are trying to fix the date.

BY THE COURT:

Q Do you know the date?

A No sir. I can't read nor write.

Q Do you know whether it is two or three years ago?

A It is just about two years ago.

BY MR. GEX:

Q Is that 1931 or 1930?

A I don't know when it was.

Q You do not know the years at all? A No sir.

BY MR. WOODCOCK:

Q You do know it was when you were living near Mr. Holden's house?

THE COURT:

Gentlemen, we have been over that several times.

- - - - -

ANDREW FUENTE: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Andrew Fuente.

Q Mr. Fuente, is that the way you pronounce your name?

A Yes sir.

Q Where do you live? A Kiln, Miss.

Q Been living there some time?

A All my life, yes sir.

Q Do you know Tom Malini? A Yes sir.

Q And Chester Travirca? A Yes sir.

Q How long have you known them?

A All my life.

Q You know a boat called the Nonpareil?

A I saw one.

Q Where did you see her?

A At Kiln, Miss. one time.

Q Can you fix the time when you saw her?

A Been one or two years ago.

Q In the summer time or winter time?

A I think it was along in January or February.

Q Will you state whether or not you saw Tom Malini and Chester Travirca doing any repair work on that boat?

A I saw them at the boat, but I did not see them doing any repair work. I saw them standing on the dock, but did not see them doing any work, I passed along by there.

Q Just standing there?

A Yes sir, standing on the dock.

Q Where was she tied up at that time?

A At the wharf at Kiln, public dock there.

Q Do you know where M. T. Holden's place is?

A Yes sir.

Q Do you know anything about a drying shed just across Jordan River there?

A There was one there at one time, but not now.

Q You remember being in that drying shed?

A I been there several times.

Q Ever been in there when you looked across the river and saw the Nonpareil?

A No sir.

Q Didn't you tell one of the Special Agents that?

OBJECTION: MR. GEX:

I object. He is contradicting his own witness.

THE COURT: Overruled.

MR. GEX: Exception.

MR. WOODCOCK: I am surprised.

Q Did you ever see the Nonpareil there at Holden's place?

A No sir.

Q You are sure of that?

A Yes sir.

Q But you did see her over at Kiln?

OBJECTION: MR. GEX:

That is repetition. We have gone over that three times.

THE COURT: Just don't repeat it.

OBJECTION: MR. GEX:

We move the testimony be excluded as being irrelevant and immaterial.

THE COURT:

Yes, I will exclude this witness' testimony.

MR. WOODCOCK:

Your Honor recalls that Tom Malini is a defendant in this case.

THE COURT:

Yes, but he has not testified that he saw him doing anything.

MR. WOODCOCK:

Seen him in the vicinity where the Nonpareil was.

THE COURT:

You propose to offer other testimony that they were doing something on the boat?

MR. WOODCOCK:

Yes sir, and if I do not show it I am quite content  
that this testimony be stricken.

THE COURT: All right.

MR. SLADE:

In the meantime Your Honor will grant us an exception?

THE COURT: Yes.

- - - - -

JOE RODDIE: Witness, being duly sworn and examined on  
behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Joe Roddie.

Q Where do you live? A Kiln, Miss.

Q You have been living there for some time?

A Yes sir, about 20 years.

Q Do you know a boat called the Nonpareil?

A No sir, I do not.

Q Ever seen a boat called the Nonpareil?

A No sir.

Q Ever talk with one of the Special Agents about this case,  
Mr. Wood and Mr. Simons? A Yes sir.

Q Did you ever tell him you saw the Nonpareil?

A I saw a boat, but I do not know whether it was the  
Nonpareil or not.

Q You saw a boat, but you did not know her name?

A No sir, I didn't see the name of it.

Q Do you know where the Love store is at Kiln, Miss.?

A Yes sir.

Q Ever see anything unusual around that Love store in January or February, 1931?

OBJECTION: MR. SLADE: Your Honor, I object.

THE COURT:

I will sustain the objection to the question in that form.

BY THE COURT:

Q Did you ever see anything pertaining to liquor transactions?

A I saw some cars parked there in front of the store one night. I didn't see any liquor.

THE COURT:

He cannot testify to that unless he can identify one of the defendants with some transaction.

BY MR. WOODCOCK:

Q Whose car did you see in that group?

A I can't say. There were a bunch of cars there, about six or eight. Some had Mississippi tags, some Louisiana tags on them.

MR. WOODCOCK:

I am taken utterly by surprise with this witness.

MR. GEX:

It is a little strange that he is taken by surprise as to all of them.

THE COURT:

No, that may not be strange, but the thing to do is to let the witness go.

MR. WOODCOCK:

It is usual to ask leading questions in a situation of that kind.

THE COURT: I will permit you to lead him.

BY MR. WOODCOCK:

Q You have talked with one of the Special Agents about this case?

OBJECTION: MR. SLADE:

Repetition. He has already asked him that three times.

A Yes sir.

Q Didn't you tell that particular Special Agent you saw a particular car in this lot?

A Yes.

Q Whose car was it?

A I can't say whose car it was.

Q Didn't you give the name of the car?

A Yes sir.

Q Whose name did you give? A Leander Necaise.

Q You told the Special Agent it was Leander Necaise's car?

A I saw one that looked like Leander Necaise's car.

THE COURT: Refresh his recollection.

BY MR. WOODCOCK:

Q Do you recall now it was Leander Necaise's car?

A I can't say it was Leander Necaise's car. It looked like his car from the rear. His car had a trunk on the rear.

Q Why did you tell the Agent it was Necaise's car?

A I didn't tell -

THE COURT:

Exclude his testimony, gentlemen of the jury. All of his testimony is excluded. (To witness) Get down from the witness stand.

- - - - -

(SIMON TRAVIRCA called as a witness)

MR. WOODCOCK:

I will excuse this witness for the time being.

THE COURT: The witness is excused. Step aside.

- - - - -

MISS ALCIDA LADNER: RECALLED:

BY MR. WOODCOCK:

Q Now have you looked up the number I asked you to?

A Yes sir.

Q Whose number is 237? A Hotel Weston Annex.

Q And whose number is 2003?

A Leander H. Necaise.



Q You are talking about 1931, are you?

A Yes sir.

NO CROSS EXAMINATION:

THE COURT:

Gentlemen of the jury, you may go with the same instructions you had before, until nine o'clock A. M. Wednesday, April 3, 1933.

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APRIL 3, 1933: 9:00 A. M.

LEON FOX: Witness, being duly sworn and examined on behalf of government, testified as follows;

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Leon Fox.

MR. GEX:

Before this witness testifies, I want to call Your Honor's attention to the fact that before the rule was invoked he sat in this Court room all the afternoon of Monday when testimony was being offered in evidence. I thought he had been discharged, at which time Your Honor assigned him to me to represent him. He was taken to the witness room and then walked back and sat with those colored men. (Indicating)

MR. WOODCOCK:

I do not know whether that fact is correct or not. I

know this witness was a defendant, and probably my friend is referring to the time he was here as a defendant. My recollection is that when he was nolle prosequi, he went out.

THE COURT: I know that was the instructions.

MR. WALLACE:

He stayed in the Court room all afternoon, because we commented on it. We did not think the government was going to use him.

THE COURT:

If Counsel for defense noticed that he was in the Court room, it certainly should have been called to the Court's attention.

MR. GEX:

We did not know he had not been discharged.

THE COURT: Let the witness proceed.

BY MR. WOODCOCK:

Q Do you know where Mr. Mose Holden lives?

A Yes sir.

Q Do you know his boat landing?

A Yes sir.

Q Were you ever there?

A Yes sir.

Q What did you do when you were down at Mr. Mose Holden's boat landing?

A Load liquor.

Q Load it from what?

A A boat.

Q On to what?

A Trucks.

Q And do you know where those trucks went?

A To the pecan farm they said.

OBJECTION: MR. SLADE:

We object to what they said.

BY THE COURT:

Q Who said that? A I don't know, Sir, who said that.

THE COURT: Exclude that statement, gentlemen.

BY MR. WOODCOCK:

Q Will you state whether or not you ever went with these trucks, or on one of these trucks to the pecan farm after you had helped load it? A One time.

Q And what did you do after you got to the pecan farm?

A Unloaded the liquor into the box cars.

Q Now can you fix the time when you unloaded liquor at Holden's farm?

A No sir, I can't.

Q Do you know what year it was? A 1931.

Q Do you know what month it was?

A Not exactly, but it was along about January or February.

Q How many times did you help unload liquor at Holden's Landing?

OBJECTION: MR. SLADE:

I object. There is no evidence to show that he unloaded any liquor at Holden's Landing.

BY MR. WOODCOCK:

Q Did you unload liquor from any place else in that vicinity? A One time.

Q And where was that? A At the wharf.

Q What wharf? A Kiln wharf.

Q Where is that wharf with reference to Holden's Landing?

A Across the river.

Q Just across the river is it? A Yes sir.

Q Will you state whether it was about the same time you unloaded over at Holden's Landing?

A It wasn't the same time.

Q Was it in that same year?

OBJECTION: MR. GEX:

We object. In the year that they charge this took place there was an arrest, and it is our position after the arrest, if there was any other unloading, it was no conspiracy after the men were charged and arrested.

THE COURT:

Overruled. It could have continued in this same conspiracy after they were arrested, if they were out on liberty.

BY MR. WOODCOCK:

Who employed you, or hired you, or engaged you to unload liquor at Holden's landing?

A Mr. Leander Necaise.

Q How much did he pay you, if anything? A \$5.00.

Q You know Leander Necaise, do you?

A Yes sir.

Q Well now, after you had done this, did you have a talk with any of these Special Agents?

A No sir.

Q Do you know Special Agent Wood? A Yes sir.

Q Didn't you have a talk with him? A Yes sir.

Q Now after you had a talk with Wood, will you state whether or not you had any conversation or talk with Mr. Leander Necaise? A Yes sir.

Q And what did he tell you to do?

A To leave.

Q And will you state whether or not he gave you any money?

A Yes sir.

Q How much? A \$12.00.

Q And what did you do after that? A I left.

Q And where did you go? A Memphis, Tenn.

Q And how long did you stay at Memphis?

A Four months.

Q And then what did you do? A Came back.

Q And after you came back did you see Mr. Necaise again?

A Yes sir.

Q What did he do that time? A Gave me money.

Q And what did he tell you, if anything?

A Leave.

Q And what did you do? A Left.

Q Where did you go? A Badlow Bend, Ala.

Q How much money did he give you? A \$10.00.

Q How long did you stay at Badlow Bend, Ala.?

A Until he come and got me.

Q Who came and got you? A Mr. McDuffy.

Q Who is Mr. McDuffy? A He came and got me.

Q You mean he is one of the government men?

A Yes sir.

Q Then he put you in jail? A Yes sir.

Q Will you state whether or not you plead guilty to this offense? A Yes sir.

Q And you served your time and have been discharged?

A Yes sir.

Q Now go back to when you were helping unload liquor at Holden's Landing. Can you say who helped you, or who was there at that time, whom you saw?

A (No answer)

BY THE COURT:

Q Tell all the people you saw at that place at that time?

A Ilos Parker, Jim Dantzler -

Q Is Jim Dantzler here; is that he? (Indicating)

A That's him.

Q Anybody else? A Charles Martin.

Q You did not go on the boat itself, did you?

A No sir.

Q What part of it did you do?

A What you mean?

Q You were on shore? A I loaded the trucks.

Q Will you look at these packages here; do they look like them? (Indicating) A Yes sir.

Q What did you do, pass them up? A Yes sir.

CROSS EXAMINATION:

BY MR. GEX:

Q You said you plead guilty; why did you plead guilty?

MR. SLADE:

I want the record to show I assume the ruling on this so far as the defendant Martin is concerned, is subject to the same ruling Your Honor made previously.

THE COURT: Certainly.

BY MR. GEX:

Q You said you plead guilty. Weren't you arraigned after and said you did not plead guilty?

MR. WOODCOCK: Under advice of Counsel.

MR. GEX: I think I have a right to -

THE COURT:

All right. Let him answer about it,

BY THE COURT:

Q You were arraigned the other day when the other defendants were in Court? A Yes sir.

BY MR. GEX:

Q That is not the offense you say you pleaded guilty to and served your time?

A I don't know if it is or not.

Q Did you serve any time for this offense?

A Five months.

MR. WOODCOCK:

The Indictment and record shows that; that is a matter of record.

BY THE COURT:

Q Did you understand that you were serving five months for helping to load liquor on trucks over there?

A Yes sir.

BY MR. GEX:

Q What Court did you plead guilty before?

A Right here.

Q And served five months?

A Served five months, yes sir.

Q And you plead guilty here?

A Yes sir.

Q When was that?

A 1932.

MR. WOODCOCK:

I have the date here. It is a matter of Court record.

THE COURT:

I will permit you to offer the record in connection with this testimony.

MR. WOODCOCK:



I may say that is why this case was nolle prosequi against him after I found he plead guilty and served his time.

BY MR. GEX:

Q Do you know a man named O'Neal? A No sir.

OFFER: MR. GEX:

May we offer the first Indictment in evidence, now that you say he plead guilty. We want to offer in evidence the Indictment under which he plead guilty?

THE COURT: All right.

MR. GEX: It is considered in the record?

the court; Yes.

BY MR. GEX;

Q You and these other colored boys you saw there that night, they were just paid to unload that liquor?

A Yes sir, I reckon they was. I can't guarantee they was getting paid like I was.

Q That was all in Mississippi? A Yes sir.

Q Did you ever come to New Orleans and enter into an agreement with anybody to bring liquor in?

A No sir.

Q You don't know of them doing it? A No sir.

Q All you know they were paid and they were doing just what you were doing? A Yes sir.

Q After unloading the liquor in Hancock County you went

home, and the others did too?

A Yes sir.

MR. WOODCOCK:

I would like him to understand he is a free man; he is discharged.

THE COURT: (To witness) You are discharged.

MR. WOODCOCK:

Instead of the formality of offering the minutes, I wonder if it could be understood and agreed this defendant plead guilty on December 16, 1932 in case number -

THE COURT:

I have permitted you to offer the Indictment.

- - - - -

R. D. LOVE: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A R. D. Love.

Q Mr. Love, where do you reside, Sir?

MR. WALLACE:

Yesterday afternoon when the Court had adjourned and defense Counsel were here in conference, Counsel for the government had all of the witnesses all in a huddle in here talking about this case, after the Court instructed them not to communicate with each other about the case and only with their Counsel, and we were

ordered out of the Court room, and I saw this witness in the Court room. I asked Counsel if the rule was not violated -

MR. WOODCOCK:

I have been at the Bar of the Federal Court for several years. I always thought it the duty of Counsel to talk to witnesses before putting them on the stand, so that he could know what they would testify to and be able to vouch for their reliability. The fact is, the Court room was the only place large enough for me to get the witnesses together. They were over there. (Indicating) I called each one separately over here and talked to him. Whether the other witnesses heard him I do not know. If that is a violation of even the spirit of the instructions of the Court, I am certainly unaware that it was. In fact, as I recall, Your Honor suggested that I talk to the witnesses, and I talked to each witness about 25 or 30 feet from the others, and in an ordinary tone of voice.

THE COURT:

It is proper for Counsel to find out, if he can, what kind of testimony his witnesses will give, but the rule is not to talk in the presence of other witnesses, or so near they can keep up with him and understand the conversation going on.

MR. WALLACE:

There was a great army of witnesses sitting in these chairs and around the table, and we were seeking to close up our affairs, when we were ordered from the Court room, and I heard Counsel talking to these witnesses when I was at the door down there, and this witness was among a large number of witnesses.

THE COURT:

Let the record show that the Counsel for the government stated that he talked to the witness about 25 or 30 feet from where the other witnesses were in an ordinary conversation tone of voice.

MR. WOODCOCK:

I may say that I never heard of such a rule, Your Honor; very frankly, I never heard of such a rule. I am sure it was not violated. I talked with them and excused a number of them.

THE COURT:

The rule in all jurisdictions I have practiced in, the Attorneys on either side are permitted to interview their witnesses, but not one witness in the hearing or presence of another witness, The Court will permit the witness to be examined. In the Court's opinion, conversations that far away would not be very intelligible to other witnesses separated from the witness that distance in this Court room.

MR. WOODCOCK:

Of course, it is a fact also that only a limited number of these witnesses who remained. I cannot say how many there were, but I know the ones I wanted to talk to were not here.

THE COURT: Proceed with the examination.

BY MR. WOODCOCK:

Q Mr. Love, you are a citizen of Kiln, Miss.?

A Yes sir.

Q How long have you lived there?

A About twelve years.

MR. GEX: I can 't hear a word.

THE COURT:

He is very much nearer than the witness was yesterday.

MR. GEX:

We are all here talking in conference, and it makes a difference.

BY MR. WOODCOCK:

Q You said you lived here twelve years?

A Yes sir.

Q Did you ever see the lugger boat Nonpareil?

A I can't say positively it was the Nonpareil. I saw the boat in question, I suppose.

OBJECTION: MR. SLADE: I ask that be stricken out.

THE COURT:

Do not say what you suppose. Let it be stricken from the record.

BY MR. WOODCOCK:

Q When did you see this boat. Can you fix it by incident?

A No sir, I can't remember the date, of course. I know it was two years or more ago.

Q I will refresh your recollection. Do you remember when the box car of liquor was seized at Ansley?

A Yes sir.

Q Can you fix the seeing of this boat with reference to that time?

A Right along there sometime.

Q What was the color of that boat?

A I am not positive.

Q Where was she located?

A At the wharf right at this side of my warehouse at Kiln.

Q And it was right about the time that you heard about the seizure at Kiln?

OBJECTION: MR. GEX: I object to repetition.

THE COURT: Yes. Do not repeat. He has stated that.

BY MR. WOODCOCK:

Q Whom did you see of these defendants on the boat at that time?

A I saw Tom Malini and Chester Travirca on the boat.

Q And do you know what they were doing?

A Yes sir, making repairs on the boat.

MR. WOODCOCK:

If it please the Court, this is to follow up a witness -

THE COURT: Yes, I recall.

CROSS EXAMINATION:

BY MR. GEX:

Q The Malini boys are ship carpenters? A Yes sir.

Q That is their business? A Yes sir.

Q They have a shipyard up there? A Yes sir.

Q And they repair all boats offered to them for repairs?

A Well, Mr. Gex, I can't say they have a shipyard.

Q Jordan River is a very large river? A Yes sir.

Q Large traffic up that river? A Yes sir.

Q And you do not know the name of that boat?

A No sir.

Q And you do not know one from the other; you have not navigated boats? A No sir.

Q And you can't tell whether this was a lugger or sloop, or what it was?

A I don't know the difference between a lugger and a sloop.

- - - - -

CHESTER TRAVIRCA: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Chester Travirca.

Q Where were you in the winter of 1931 after Christmas;  
where were you after Christmas in the winter of 1931?

A I was at Kiln.

Q Christmas of 1930; error as to that. Do you know the  
defendant, Tom Malini?

A Yes sir, I know him.

Q Will you state whether you were engaged by him to do  
any work in that winter?

A I was not engaged by him. I worked with him.

Q You worked down at the dock at Kiln, Miss. on the  
Jordan River?

A Yes sir.

Q On what boat did you work, if it was a boat?

A It was a boat. I don't know the name of the boat. I  
<sup>that</sup>  
never paid/much attention to the boat.

Q You do know you were working on a boat?

A Yes sir, I know that.

Q And who employed you to work on the boat?

A The man on the boat. I guess he was the captain of the  
boat.

Q Do you know his name?

A I don't know his name.

Q Who was working with you? A Tom Malini and I.

Q Do you know where the boat was tied?

A At the docks.

Q I do not want any mistake about the time. I said



Christmas of 1931?

A I don't remember the time of it.

Q Was it in the winter time?

A Well, I tell you the truth, I don't remember. It was sometime in the winter - I mean the latter part of the year, but I don't remember whether winter or not.

Q Were you around Kiln when box cars of liquor were seized? Did you ever hear of that?

A Yes sir, seen it in the paper and heard different ones talking about it.

Q Were you working on this boat any time anywhere near that event?

A I tell you, I don't remember just how near that was to that time.

Q You do know you worked with Tom Malini?

A On a boat down there.

CROSS EXAMINATION:

BY MR. GEX:

Q Tom Malini is a ship carpenter? A Yes sir.

Q And you do not know who employed him to work on that boat? A No sir.

Q You do not know the name of the boat?

A No sir.

Q I ask you if that was not at a regular public dock?

A Yes sir.

Q All boats having trouble come up to be repaired?

A Yes sir.

Q And the Malini family are ship carpenters?

A Yes sir.

Q Any other ship carpenters in that neighborhood?

A Not that I know of.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q You said Malini Shipyard. That is not so, is it?

A No, public dock.

Q It is Levy's wharf?

A No sir. It was Edward Hines Lumber Co.

Q Near Mr. Levy's warehouse? A Yes sir.

Q There is no Malini shipyard there?

A No shipyard anywhere on the river.

- - - - -

HARDY ELLIS: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Hardy Ellis.

Q Mr. Ellis, where do you live?

A I live at Bay St. Louis now.

Q Do you know where Kiln is? A Yes sir.

Q Do you know where pecan farm is?

A No sir. They have two or three of them out there. What one is it? They have pecan orchards, and Weston farm, two or three of them.

Q Do you know the pecan farm where there is a siding or a logging railroad by it? A Yes sir.

Q Do you remember Sunday March 1, 1931; were you in that vicinity at that time? A Yes sir.

Q How do you fix that date?

A I wouldn't know that was the same date, but the date you mentioned though was around about that time.

Q And what did you see at that siding or logging railroad in the pecan farm?

A We passed by and seen some guys putting pulp wood in a box car.

Q Who were working there?

A Bunch of colored fellows from the Kiln.

Q Did you recognize any of them?

A Yes sir, I recognized some of them.

Q Whom did you recognize?

A A fellow by the name of Ilos Parker, Baby Green -

Q Is he here? A No sir, I don't think.

Q Anyone else? A And Fatty, Jim Dahtzler.

Q Is that he over there? (Indicating)

A Yes sir, that big one. (Indicating)

Q At about that time did you observe any boat in the river?

A Yes sir, we seen a boat going up the river.

Q What was the name of the boat? A The Nonpareil.

Q Can you state what was her condition as to being loaded or unloaded? A Looked like loaded.

OBJECTION: MR. SLADE: I ask that be stricken out.

BY MR. WOODCOCK:

Q Why do you say that?

OBJECTION: MR. SLADE: I object.

BY MR. WOODCOCK:

Q Was the boat loaded?

A Yes sir, looked like it was loaded.

OBJECTION: MR. SLADE: I ask that be stricken out.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q That was about the time you saw this activity at the logging railroad? A Yes sir.

CROSS EXAMINATION:

BY MR. GEX:

Q Son, you were in jail at Bay St. Louis about six or seven months? A No sir, two months.

OBJECTION: MR. WOODCOCK:

I object to that question. He can ask the witness if he was ever convicted of a crime. That is not proper cross examination.

THE COURT:

Exclude that, gentlemen of the jury.

BY MR. GEX:

Q You were convicted in Hancock County for transporting liquor?

A They found two quarts in an automobile I was in.

Q I ask you if you were convicted? A Yes sir.

Q And you served your time for it? A Yes sir.

Q At the time you talked about going by the Weston pecan farm, you say these negroes were actually loading pulp wood in the car? A Yes sir.

Q Any liquor there? A No sir.

Q If any liquor there, there was nothing to prevent you from seeing it?

A We went up to see it.

Q As a matter of fact that is a pretty big industry in that neighborhood, shipping pulp wood out of there?

A Yes sir.

Q Mill at Moss Point? A Yes sir.

Q You say you saw a boat on the river. Of course, Jordan River is a very deep, big, wide river; lots of traffic there? A Yes sir.

Q Nothing unusual to see boats going up and down there?

A No sir.

Q You can't say it just looked to you like it was loaded?

A Looked like she was loaded; that is all.

Q How far is the Jordan River at the nearest point; I do not mean where it goes up in Catahoula Creek; I mean the river itself?

A Around 12 or 13 miles.

Q From the Air Line?

A From where I seen the boat.

RECROSS EXAMINATION:

BY MR. WOODCOCK:

Q There is a road from the Jordan River up to pecan farm, isn't there?

A Yes sir.

CROSS EXAMINATION:

BY MR. SLADE:

Q You said, as I understood it, you were just going by on that day?

A Just passing by.

THE COURT:

I will not permit cross examination by several Counsel in the same examination. Your question indicates you are going over the same ground.

MR. SLADE:

I have not touched upon the same ground, at least I do not intend to.

Q And your attention was directed to that -

A I just looked over and seen them there.

Q How far away were you when you saw them?

A About 200 yards, I guess.

- - - - -

CURTIS WILLIAMS: Witness, being duly sworn and examined  
on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Curtis Williams.

Q Where do you live?

A I am in Abita Springs, La.

Q And where did you live in the winter of 1930 and 1931?

A Kiln, Miss.

Q You remember the time when some liquor was seized in that  
neighborhood, carload of liquor?

A Yes sir. I read about it in the paper.

Q Were you around there at that time?

A Yes sir, I was around the Kiln.

Q Now did you notice any trucks without of State licenses?

A Yes sir, I seen some trucks.

Q Where did you see them?

A Up by Nick Haas' garage.

BY MR. GEX:

Q Did you say up by Nick Haas' garage, or in Nick Haas'  
garage?

A I seen them there getting gas, and saw them in the garage.

BY MR. WOODCOCK:

Q You saw them getting gas and saw them in the garage?

A Yes sir.

Q What attracted your attention to them?

A They said they were hauling oyster shells and we seen oyster shells in them.

OBJECTION: MR. GEX:

We object to "they said they were hauling oyster shells."

I do not know what he means by that. The trucks couldn't have said it.

MR. WOODCOCK: I ask it be excluded.

THE COURT: All right. That goes out.

BY MR. WOODCOCK:

Q Did you make any mental note of the license numbers?

A Yes sir, I remember the numbers.

Q What are the numbers? A 40016, 40017 and 40019.

Q 40016, 40017 and 40019? A Yes sir.

Q What State? A Louisiana.

CROSS EXAMINATION:

BY MR. GEX:

Q Nick Haas is a defendant here. He is a merchant up there and runs a garage?

A He runs a store.

Q Didn't he run a garage at that time?

A Yes sir.

Q You knew he ran a garage at that time?



A Yes sir.

Q At the time he was garage owner and ran a garage, and he sold oil and repaired trucks and cars?

A Yes sir.

Q And you saw these trucks there that you have referred to, buying gas?

A Yes sir.

Q And you saw them inside his garage?

A Yes sir.

Q You don't know what they were doing there?

A No sir.

Q You mean to tell this jury, that now, two years after this occurred, you remember distinctly the numbers of those trucks?

A Yes sir.

Q How many trucks have you seen up there about that time?

A I seen three great big trucks and other trucks.

Q There were other trucks. Isn't it a fact that Kiln is a place where all traffic goes from north to south, Poplarville and cities above there, Meridian, Jackson?

A Yes sir.

Q Isn't it a fact there is a great deal of traffic by that road?

A Yes sir, there was then.

Q Do you remember the number of any other truck that passed by at that time?

A No sir, I do not remember any other.

Q And you just remember the numbers two years and a half

afterwards, and you can give them from memory of three trucks that you saw at that time. Do you know who they belonged to? A No sir.

Q Do you know whether white or colored drivers?

A They looked to me like dagoes.

Q They looked to you like dagoes. I asked you whether they are white or black?

A They were supposed to be white.

Q They were supposed to be white, these men you are talking about? A Yes sir.

Q And you say you can positively remember the numbers of these three trucks? A Yes sir.

Q Did you notice the year of the license plate?

A 1931.

BY MR. WALLACE:

Q You made a mental note of that? A Yes sir.

Q You are positive of that? A Yes sir.

- - - - -  
(HENRY N. OTTNOT called)

MR. WOODCOCK:

This witness is not here. This official is merely to present some documentary evidence.

THE COURT:

I will permit you to offer it when he comes in.

MR. WOODCOCK:

I have a copy of the record. I shall be very glad to show it to Counsel.

THE COURT:

Has he been summoned to be here with the record?

MR. WOODCOCK: Yes sir. He has been here every day.

THE COURT:

If the witness does not come in I will give you an attachment for him.

- - - - -

(MR. DANHAUER CALLED)

MR. WOODCOCK: This witness, I understand, is not here.

THE COURT:

I am going to impose a fine on these witnesses who are not here when called.

MR. WOODCOCK:

If Your Honor wants, I will go on to another matter.

(MRS. L. A. GALE CALLED)

MR. WOODCOCK: This witness is not here.

- - - - -

MRS. ROBERT BRUCKER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Mrs. Robert Brucker.

Q Do you live in New Orleans, Mrs. Brucker?

A I do.

Q What is your address? A 7530 St. Charles Ave.

Q And what is your occupation?

A Hostess of the Demoruelle Apartments.

Q I show you this gentleman here and ask you if you have ever seen him before? (Indicating)

A I have.

Q And what was your business with him, or what was his business with you?

A He rented an apartment there.

Q At the same address that you just gave, 7530 St. Charles Ave.?

A Yes sir.

Q And when did he rent that apartment?

A I went in as hostess two years last February, and he was living in the building at that time.

Q And did he continue to live there from February 1931?

A He lived there I think for two weeks after I went in, and one month afterwards, which would be between five and six weeks.

Q That would bring it down to the first part of April, you mean?

A I believe so. I was <sup>in</sup> there about two weeks, and then he returned another four weeks.

Q What name did he go under as an occupant of the apartment?

A Mr. Morrison.

Q Is that the only name that you knew him by?

A Yes sir.

OBJECTION: MR. SLADE:

Objected to as irrelevant and immaterial.

THE COURT: Overruled.

MR. SLADE: Exception.

MR. GEX: She has answered yes.

MR. WOODCOCK:

I will state to the Court that I am taken by surprise, and I would like to have the opportunity which the law gives me, I believe, to ask this witness some other questions.

THE COURT:

I will permit you to lead her to refresh her recollection.

BY MR. WOODCOCK:

Q Did you not state to one of the government inspectors; or some inspector who came to you and talked to you about this matter?

A Yes.

Q And didn't you tell that gentleman that this gentleman, whom you just pointed out, that his name was McGregor?

MR. SLADE: Objection.

THE COURT:

I will sustain the objection to the question in that form. I will permit you to ask the witness to refresh her recollection if she now recalls he went by that name.

BY MR. WOODCOCK:

Q Have you any recollection of the name that he went by?

A Well, let me see. Would I have time to think a moment?

I went in there two years in February, and he was in the building when I went in, and after I was there he went away a week anyway, and I can't remember whether that man - I could look up the record and see whether his name was Morrison or McGregor -

OBJECTION: MR. SLADE:

I ask that be stricken out, what she will look up. She is testifying -

THE COURT: That will be stricken out.

BY THE COURT:

Q Do you recall that he ever went by that name, McGregor, or whatever it is?

A Well, I know at the time he had just gone out of the building shortly, and when the government men were in there I gave them the name he was going under at that time.

OBJECTION: MR. SLADE: I ask that be stricken out.

BY THE COURT:

Q You now recall that you gave the government men the name?

A That he was under at the time he was at the building, but that has been a long time ago, and many people in

and out of the building.

BY MR. WOODCOCK:

Q That is true. You are certain you gave his name to the government men?

A He paid his rent, and the name was on the mail box at the time.

Q Will you state whether or not that name was McGregor?

THE COURT: I overrule the objection.

BY THE COURT:

Q Now after having your recollection refreshed, do you recall that was the name?

A I declare I don't - both names -

Q If you do not remember just say so?

A If I have already given the name of the man there at the time -

THE COURT:

If she made a statement to the agents in writing, let her read the statement.

A (Witness continuing) He did not ask me the name of the man. He showed me a picture of him and asked me if he lived there and then asked me the name, and I went to the mail box; his name had not been removed from the mail box, whatever name was on the mail box.

BY MR. WOODCOCK:

Q Did you point the mail box out to the government agents?

A Yes sir.

Q And whatever name was on that mail box was the name this man was going under? A To my knowledge.

Q Did the mail box correspond to the apartment which he was occupying? A Yes sir.

CROSS EXAMINATION:

BY MR. SLADE:

Q When did the Federal agent see you that you spoke about?

A I would not be able to tell you when.

Q When did the Federal agent see you?

A When did he see me?

Q Yes.

A They had left the apartment when he came there.

Q When did the Federal agent see you?

A You mean what date?

Q Date, or month, or when?

THE COURT: As near as you can give it.

A I would not be able to tell you the positive date.

BY MR. SLADE:

Q I would rather have you tell me now to the best of your recollection what the date was?

A He has been out of the apartment, because when he went out of the apartment I took the apartment he went out of.

Q You knew him as Mr. Morrison?

MR. WOODCOCK: She did not say that.



MR. SLADE:

Mr. Woodcock has done this quite often. I do not want any interjections from the gentleman.

THE COURT: That is right.

BY MR. SLADE:

Q You stated in open Court here you knew him as Mr. Morrison?

A I read the name in the paper as Morrison, and when I came into the Court here I saw him, and I remembered his face as the man who had lived in the apartment.

Q And you knew him as Morrison?

A I didn't know him as anything until I saw it in the paper.

Q But you knew him in the apartment as Morrison?

A No, I -

Q Didn't you so tell the jury this morning in answer to the District Attorney?

A Naturally when I came up here I saw the man.

Q Are you testifying from what you saw in the paper, or from your personal knowledge?

A I would not know much from personal knowledge, because I -

Q The government agents came there and told you what they came there for, who they were looking for?

OBJECTION: MR. WOODCOCK: I object.

A He did not tell me that.

Q He came there and wanted to know -

OBJECTION: MR. WOODCOCK:

I object. I have some rights here, and I want all my rights. When you ask the witness a question, the witness should have opportunity to answer before you interrupt.

MR. SLADE: I did not interrupt.

THE COURT:

Sustain the objection. Ask the question and give the witness an opportunity to answer, and if it is not responsive I will exclude it.

- - - - -

R. E. HERRICK: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A R. E. Herrick.

Q Mr. Herrick, you were the investigating officer in this case? A I was.

Q Did you go to 7530 St. Charles Ave. in April 1931 in an investigation of this case? A I did.

Q Who went with you?

A Special Agent Eiffert.

Q Where is Eiffert now?

A Attending Federal Court either in North or South Carolina.

Q He is under subpoena up there; you know that?

A Yes sir.

Q Will you state what you did, what was your conversation with the lady who was just on the stand?

THE COURT:

He cannot state the conversation. He can testify whether she pointed out this apartment and mail box.

BY MR. WOODCOCK:

Q What did you ask the lady?

OBJECTION: MR. SLADE: I object to what he asked.

THE COURT: Overruled.

MR. SLADE: Exception.

A I asked the lady who occupied the apartment there, either apartment 1 - I am not so sure about the number of the apartment, I do not recall - either No. 1, or Mrs. Brucker lived in Apartment #1, one of the two.

OBJECTION: MR. SLADE: I ask that be stricken.

THE COURT: I sustain the objection.

BY MR. WOODCOCK:

Q Did you show this lady a picture? A I did.

Q And did she give the name as she knew it of the man whose picture you showed her? A She did.

Q And what name did she give you? A McGregor.

Q Whose picture was it that you showed her?

A Morrison.

Q You are sure of that?

A I am.

CROSS EXAMINATION:

BY MR. SLADE:

Q Where did you get that picture?

A That picture that we had at that time, the one that I had with me at that time.

Q You know what I am talking about?

A We had several pictures -

Q You were asked certain questions?

A That is the one we got from Mr. Morrison.

Q That is the one you got at the time you raided the place?

A That is correct.

MR. SLADE:

Now I direct Your Honor's attention to the fact that this testimony is in violation of Judge Borah's order, and I ask that the testimony be excluded, and also the testimony of the lady preceding this witness here.

THE COURT: Yes, I will exclude both of them.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Were you present when Mr. Morrison was arrested?

A No. I saw him a few moments later.

Q What name did he give to you and your associates at that time?

A Morrison.

Q He gave the name of Morrison at that time?

A Yes sir.

THE COURT:

I will not exclude the lady's testimony pointing out the defendant as being the man that was there.

MR. SLADE: I mean all the other part.

THE COURT: All with reference to the picture.

MR. SLADE:

And Your Honor, as I understand, granted our motion to strike out all the testimony of this witness.

THE COURT:

Yes. Gentlemen of the jury, all the testimony taken of the last witness is excluded and you are not to consider that, and the lady's testimony with reference to the photograph that was shown her. The statement she made pointing out the defendant Morrison as being the one in the apartment is not excluded.

MR. WOODCOCK:

All of her testimony is in for what it is worth.

MR. SLADE:

I do not understand that to be the Court's ruling.

THE COURT:

I excluded that part as to the photograph.

MR. WOODCOCK:

But her recollection as to what the name might be -

THE COURT:

As I recall it she did not have any recollection except the picture was shown her.

MR. WOODCOCK:

And she said the name was on the letter box.

MR. SLADE:

She said she did not have any recollection.

MR. WOODCOCK:

I think the record will show what the testimony was.

THE COURT:

I think I have made it perfectly clear to the jury by the ruling of the Court.

- - - - -

ANDREW E. SCHIRO: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Andrew E. Schiro.

Q What is your occupation?

A Manager of the French Market Branch of the Hibernia Bank, Decatur Street branch of the Hibernia Bank.

Q Mr. Schiro, will you look at the gentleman here on my left? A (Witness does as requested)

Q Have you ever had any dealings with him?

A Yes sir.

Q What do you understand his name to be?

A Mr. Morrison:

Q Now will you come down here?

A (Witness does as requested)

Q Have you ever had any dealings with this gentleman here?  
(Indicating)

A Yes sir.

Q Under what name?

A Smith.

Q Do you know the initials?

A A. E.

MR. WOODCOCK:

I would like the record to show the witness pointed out  
Mr. Joseph O'Neal, one of the defendants.

THE COURT: All right.

BY MR. WOODCOCK:

Q Now have you any recollection or records of an applica-  
tion made by either of these gentlemen about December  
15, 1930, for the transfer of \$1,000 to Biloxi, Miss.?

A I have not. The records will show that. I cannot remem-  
ber that.

Q Have you brought such records with you?

A Yes sir.

Q Will you look at them and see?

A (Witness does as requested) You mean transfer by wire  
or check?

Q By wire? A We have no record of that.

Q What would be the course of your dealings if such an  
application was made to your Branch bank for a tele-

graphic transfer of money?

OBJECTION: MR. SLADE:

I object. No foundation. Irrelevant and immaterial.

MR. WOODCOCK:

I cannot examine but one witness at a time.

THE COURT: You expect to connect it.

MR. WOODCOCK: Yes, Your Honor.

THE COURT:

Overruled. If it is not connected up I will exclude it.

BY MR. WOODCOCK:

Q What would you do if either of these gentlemen brought money to your branch bank and asked that it be transferred by telegraph?

A We call the main office and give the information to him and he wires.

Q And do you make any record?

A No, not in the branch.

Q Will you state whether or not during the fall of 1930 and the winter of 1931, either of these gentlemen made such application to your Branch bank for the transfer of money by telegraph?

A At times, yes.

Q And to whom would you transmit that information?

A To our head office.

Q You made no record of it whatsoever?

A None whatever.



Q But you do recall that money was sent in?

A Yes sir.

BY THE COURT:

Q Did that occur many or few times?

A I can't tell; just now and then. We have records of them.

BY MR. WOODCOCK:

Q Where are those? A At the main office.

Q Under the care of Mr. Edell?

A No, Mr. Lawton and Edell.

Q Did you have the telephone number of either of these gentlemen, Mr. Smith or Mr. Morrison? A No.

Q Did Morrison have a bank account with you? A Yes.

Q He had an account with you which was kept -

A At the branch.

Q Did Smith have an account with you? A No.

Q And what records have you brought?

A What you asked for in the subpoena. (Hands documents to Counsel) You have them listed in the subpoena. This is an extract of our record.

(Mr. Woodcock in conference with witness)

MR. SLADE: That is loud enough for the jury to hear.

THE COURT:

You gentlemen disregard any conversation between Counsel and the witness.

MR. WOODCOCK:

I ask permission to excuse this witness until I can examine this record a little bit more. The witness is instructed, after he is cross examined, to remain here until I have examined this record.

THE COURT:

All right. You remain here, Mr. Witness. Do you gentlemen prefer to wait until he finishes his examination before you cross examine the witness?

MR. SLADE: Yes, Your Honor. I will wait.

MR. WOODCOCK:

Those are not the records I am interested in, and I have no further questions to this witness at present.

CROSS EXAMINATION:

BY MR. SLADE:

Q Do you recall when the Federal Agent first came to see you? A I think it was after the arrest.

Q And did he at that time have any papers with him and show them to you, show you some papers when he was down there? A Yes sir.

Q And called your specific attention to what he wanted?

A Yes.

Q And as a result of that you referred him to the bank for information? A Perfectly right.

MR. SLADE: Another condition, Your Honor, as the previous one.